

Exhibit 5

IRVINGTON PUBLIC SCHOOLS' OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT (IRVINGTON) (SD MSJ NO.4)

Case No.: 4:22-md-03047-YGR

MDL No. 3047

Member Case No.: 4:23-cv-01467-YGR

In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

- - - - -

IN RE: SOCIAL MEDIA CASE NO.
ADOLESCENT ADDICTION/PERSONAL 4:22-md-03047-YGR
INJURY PRODUCTS LIABILITY MDL No. 3047
LITIGATION

THIS DOCUMENT RELATES TO:

Irvington Public Schools

vs.

Meta Platforms Inc., et al.

Member Case No.: 4:23-cv-01467-YGR

- - - - -

Tuesday, May 20, 2025

CONFIDENTIAL - ATTORNEYS' EYES ONLY

PURSUANT TO PROTECTIVE ORDER

Videotaped deposition of DR. KCYIED ZAHIR,
held at Union Avenue Middle School, 427 Union
Avenue, Irvington, New Jersey, commencing at 9:37
a.m. Eastern, on the above date, before Robin L.
Clark, Professional Reporter and Notary Public in
and for the State of New Jersey.

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20

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25

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Direction to Witness Not to Answer

Page Line

332 1

333 13

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Request for Production of Documents

Page Line

NONE

Question Marked

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NONE

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1 THE VIDEOGRAPHER: We are now
2 on the record. My name is Daniel
3 Ortega and I am the legal
4 videographer for Golkow Litigation
5 Services. Today's date is May 20,
6 2025, and the time is 9:37 a.m.

7 This video deposition is
8 being held at 427 Union Avenue,
9 Irvington, New Jersey, in the
10 matter of Social Media, CA MDL
11 3047, Irvington Public Schools
12 versus Meta Platforms, Inc., et
13 al.

14 The deponent today is
15 Dr. Kcyied Zahir. All counsel
16 will be noted on the stenographic
17 record. The court reporter today
18 is Robin Clark and will now swear
19 in the witness.

20 - - - - -

21 DR. KCYIED ZAHIR, having
22 been duly sworn, was examined and
23 testified as follows:

24 - - - - -
25

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1 BY MR. KARP:

2 Q. Good morning, Dr. Zahir.

3 A. Good morning.

4 Q. My name is Andrew Karp and I
5 represent Snap in this lawsuit.

6 Can you please state your
7 full name for the record?

8 A. Kcyied Zahir.

9 Q. You understand that you're
10 under oath today?

11 A. Yes.

12 Q. Is there any reason you
13 can't provide truthful and accurate
14 testimony today?

15 A. No.

16 Q. Is this your first time
17 being deposed?

18 A. Yes.

19 Q. Congratulations. If at any
20 point you don't understand the questions
21 I'm asking, please let me know and I'll do
22 my best to clarify. Otherwise, I will
23 assume that you understood the question I'm
24 asking; is that okay?

25 A. Yes.

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1 Q. Throughout today's
2 deposition, I may refer to Irvington Public
3 Schools as IPS. If I use that acronym, do
4 you understand that I'm referring to
5 Irvington Public Schools?

6 A. Yes.

7 Q. I may also refer to Union
8 Avenue Middle School as Union Avenue. Do
9 you understand that I'm referring to the
10 middle school?

11 A. Yes.

12 Q. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

16 Q. And what is your work
17 address?

18 A. 427 Union Avenue, Irvington,
19 New Jersey.

20 Q. Prior to your deposition,
21 your counsel provided me with a copy of
22 your CV and I'll hand that to you right
23 now. This is tab one, which we will mark
24 as Exhibit 1.

25 - - - - -

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1 (Curriculum Vitae marked
2 Zahir Exhibit 1 for
3 identification.)

4 - - - - -

5 BY MR. KARP:

6 Q. Dr. Zahir, do you recognize
7 this document?

8 A. Yes.

9 Q. What is this document?

10 A. It appears to be my résumé.

11 Q. Is this something that you
12 prepared?

13 A. I believe so, yes.

14 Q. Do you recall when you
15 prepared it?

16 A. I'm not sure of the exact
17 date that this was prepared.

18 Q. Sitting here today, does
19 this appear to be a current version of your
20 résumé?

21 A. No.

22 Q. What about it does not look
23 current?

24 A. The current position has me
25 as principal of Mount Vernon Avenue. And

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1 the doctoral degree has been confirmed.

2 Q. Okay. So am I correct that
3 you are currently the principal of Union
4 Avenue Middle School?

5 A. Yes.

6 Q. And when did you become
7 principal of Union Avenue Middle School?

8 A. July 1st, 2023.

9 Q. Were you the principal of
10 Mount Vernon Avenue Elementary School up
11 until that time?

12 A. Yes.

13 Q. You also mentioned that you
14 have since completed your doctorate?

15 A. Yes.

16 Q. Congratulations.

17 A. Thank you.

18 Q. When did you earn that
19 degree?

20 A. December 2024 -- I'm sorry,
21 December 2023.

22 Q. Okay.

23 A. Yeah.

24 Q. Okay. Is the other
25 information contained in this résumé

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1 accurate?

2 A. It appears to be.

3 Q. We're going to spend a
4 little time walking through this.

5 A. Sure.

6 Q. You said that your current
7 title is principal of Union Avenue Middle
8 School, correct?

9 A. Yes.

10 Q. Before that, you served as
11 the principal of Mount Vernon Avenue
12 Elementary School, correct?

13 A. Yes.

14 Q. And that was from 2022 up
15 until July of 2023, correct?

16 A. Yes.

17 Q. Okay. Mount Vernon Avenue
18 Elementary School is a school within the
19 Irvington Public School District?

20 A. Yes.

21 Q. But during that, you worked
22 at Science Park High School as the
23 principal; is that correct?

24 A. Yes.

25 Q. That was a different school

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1 district in Newark?

2 A. Yes.

3 Q. Before that, from 2015
4 through 2021, you were the school
5 disciplinarian at Cicely L. Tyson School of
6 Performing and Fine Arts in East Orange?

7 A. Yes.

8 Q. What did your job entail as
9 school disciplinarian?

10 A. I don't understand the
11 question.

12 Q. Can you tell me about your
13 responsibilities as school disciplinarian
14 for Cicely L. Tyson Community School for --
15 of Performing and Fine Arts?

16 A. To maintain a positive
17 climate and culture in the building.

18 Q. And you were -- your
19 responsibilities were specific to that
20 school as opposed to district-wide; is that
21 right?

22 A. Yes.

23 Q. From 2012 to 2015, you were
24 a math instructor at Weequahic High School?

25 A. Yes.

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1 Q. Did I roughly pronounce that
2 correctly?

3 A. If you're not from Newark,
4 you pronounced it correctly.

5 Q. Okay. How would you
6 pronounce it?

7 A. Weequahic.

8 Q. I'm sorry?

9 A. Weequahic, that's fine.

10 Q. Also within Newark Public
11 Schools, correct?

12 A. Yes.

13 Q. From 2007 through 2012, you
14 were an SOS instructor or the dean of
15 discipline at that same school?

16 A. Yes.

17 Q. Can you tell me about your
18 responsibilities in that role?

19 A. So similar to Cicely Tyson,
20 to maintain a positive climate and culture
21 in the building.

22 Q. From 2003 to 2007, you were
23 a math instructor at the same high school?

24 A. Yes.

25 Q. And before that, from 2004

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1 through 2007 -- or strike that.

2 Around the same time, from
3 2004 through 2007, you were a homework
4 hotline math instructor?

5 A. I forgot about that, yes.

6 Q. That was in addition to
7 serving as a math instructor at the time?

8 A. Yes.

9 Q. Can you explain how you held
10 those two roles at the same time?

11 A. That was an after-school
12 position.

13 Q. In that role as homework
14 hotline math instructor, were you working
15 with high school students?

16 A. It was whoever called from
17 K -- from kindergarten to sometimes
18 college. It was a televised position.

19 Q. Before that, from 2000 to
20 2004, you were associate director of Upward
21 Bound/College Bound at Seton Hall
22 University?

23 A. Yes.

24 Q. Can you tell me about your
25 responsibilities in that role?

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1 A. I assisted the director in
2 running the pre-college program.

3 Q. Were you working with high
4 school-aged students at the time?

5 A. Yes.

6 Q. During that same period of
7 time, you were a math professor at Seton
8 Hall University from 2001 to 2003?

9 A. Yes.

10 Q. Before that, you were a math
11 instructor in East Orange from 1999 through
12 2000?

13 A. Yes.

14 Q. And, finally, from 1998
15 through 1999, you were a math instructor at
16 Arts High School in Newark?

17 A. Yes.

18 Q. Any other job experience
19 that is not listed on your résumé that you
20 would like to add?

21 A. No.

22 Q. You also have significant
23 coaching experience, correct?

24 A. I coached a bit.

25 Q. Do you coach at all at Union

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1 Avenue Middle School?

2 A. No.

3 Q. Have you coached at any
4 school in the Irvington Public School
5 District?

6 A. No.

7 Q. From 2004 through 2016, you
8 were head coach of track and field at a
9 high school in Newark Public Schools; is
10 that right?

11 A. Yes.

12 Q. Let's look to the front of
13 your résumé and talk a little bit about
14 your education. You earned your bachelor's
15 degree in mathematics secondary education
16 from the University of Maryland Eastern
17 Shore in 1998; is that right?

18 A. Yes.

19 Q. In 2000 -- excuse me, in
20 2001, you earned your master's degree in
21 psychology from Seton Hall University?

22 A. Yes.

23 Q. And as part of that degree,
24 you focused on marriage and family therapy;
25 is that right?

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1 MR. RIVERA: Object to form.

2 BY MR. KARP:

3 Q. You can answer the question.

4 A. I didn't hear what he said.

5 MR. RIVERA: I just objected
6 to the form. You can answer the
7 question.

8 THE WITNESS: Okay.

9 BY MR. KARP:

10 Q. Do you need me to reask it?

11 A. Yes.

12 Q. And I'll ask a slightly
13 different question. Your résumé says "MA
14 Marriage and Family Therapy."

15 Do you see that?

16 A. Yes.

17 Q. What does that mean?

18 A. It says psychology first,
19 because at the conclusion of the degree,
20 the last practicum part, I chose to forego
21 the required 5,000 hours to complete the
22 master's in marriage and family therapy,
23 but all of my coursework was marriage and
24 family therapy. I just didn't do the 5,000
25 hours.

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1 Q. Is it fair to say that your
2 focus in earning that master's degree was
3 on marriage and family therapy?

4 A. Yes.

5 MR. RIVERA: Object to form.

6 Asked and answered.

7 BY MR. KARP:

8 Q. Did any of your education in
9 psychology involve child psychology?

10 A. I don't understand the
11 question.

12 Q. Did you take any courses on
13 child psychology?

14 A. I'm not sure how to answer
15 that question.

16 Q. Did any of the coursework
17 that you took at Seton Hall University as
18 part of this master's program cover issues
19 of child psychology?

20 A. I'm sorry, but it's -- I'm
21 not sure how to answer that question. I'm
22 trying to give you a straight answer. I'm
23 not sure how to answer.

24 Q. And I'll try asking it a
25 little bit differently. Do you recall

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1 studying child psychology as part of this
2 master's degree?

3 A. I'm not clear on how to
4 answer that question.

5 Q. Let's try to talk this
6 through. What exactly is not clear about
7 the question that I'm asking?

8 A. The child psychology part.

9 Q. As part of this master's
10 program, did you study the psychology of
11 children or adolescents in particular?

12 MR. RIVERA: Object to form.

13 THE WITNESS: I'm unclear.

14 BY MR. KARP:

15 Q. Are you -- do you have a
16 medical degree in psychiatry?

17 A. No.

18 Q. As part of this master's
19 program, did you ever study addiction
20 treatment?

21 A. Addiction treatment, no.

22 Q. Did you study addiction?

23 A. Yes.

24 Q. Can you tell me about that?

25 A. I don't understand.

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1 Q. What do you recall -- sorry,
2 strike that.

3 You just told me that you
4 studied addiction as part of this master's
5 program, correct?

6 A. Yes.

7 Q. And what courses or what
8 lessons do you recall on addiction?

9 MR. RIVERA: Object to form.

10 THE WITNESS: I recall
11 covering addiction.

12 BY MR. KARP:

13 Q. Do you recall what you
14 learned?

15 A. The conceptual part of
16 addiction, what is an addiction, I guess.

17 Q. As part of this degree
18 program at Seton Hall, did you study the
19 impact of technology on psychology?

20 MR. RIVERA: Object to form.

21 THE WITNESS: I don't recall.

22 BY MR. KARP:

23 Q. The next item on your résumé
24 is NJEXCEL from Thomas Edison University.
25 You received a principal/supervisory

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1 certification; is that right?

2 A. Yes.

3 Q. Can you tell me more about
4 that certification?

5 A. The certification? It's a
6 certification to allow me to be a
7 principal.

8 Q. Is that part of state
9 licensing in the state of New Jersey?

10 A. It's one of the licenses you
11 can get, yes.

12 Q. You cannot be a principal in
13 the state of New Jersey without this
14 certification; is that correct?

15 MR. RIVERA: Object to form.

16 THE WITNESS: I'm not sure.

17 I'm not sure if you can or you
18 can't.

19 BY MR. KARP:

20 Q. What kind of training or
21 coursework was entailed in earning this
22 certification?

23 MR. RIVERA: Object to form.

24 THE WITNESS: I'm not sure how
25 to answer that question. Can you

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1 be more specific?

2 BY MR. KARP:

3 Q. This certification program
4 or -- strike that.

5 You completed this
6 certification program in five years, from
7 2011 through 2016?

8 A. Yeah.

9 Q. And during that time, did
10 you take classes?

11 A. Yes.

12 Q. What were those classes
13 about?

14 A. Leadership.

15 Q. Anything else?

16 A. I can't recall.

17 Q. Did the classes focus on a
18 particular grade level or type of school?

19 MR. RIVERA: Object to form.

20 THE WITNESS: No.

21 BY MR. KARP:

22 Q. As part of that
23 certification program, did you take any
24 classes relating to social media?

25 MR. RIVERA: Object to form.

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1 THE WITNESS: I'm not sure how
2 to answer that question.

3 BY MR. KARP:

4 Q. I can rephrase it a little
5 bit. As part of the certification program,
6 did you take any classes relating to the
7 student use of social media?

8 MR. RIVERA: Objection to
9 form.

10 THE WITNESS: I'm not sure.

11 BY MR. KARP:

12 Q. As part of the certification
13 program, did you take any classes relating
14 to student uses of technology?

15 MR. RIVERA: Objection to
16 form, vague.

17 THE WITNESS: As a focal
18 point?

19 BY MR. KARP:

20 Q. Is it something you studied?

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: I'm unclear --
24 I'm not sure how to answer if I
25 studied it.

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1 BY MR. KARP:

2 Q. Did any of your classes or
3 any of your coursework involve student use
4 of technology?

5 MR. RIVERA: Object to form.

6 THE WITNESS: Yes.

7 BY MR. KARP:

8 Q. How so?

9 A. Technology use is a
10 component of 21st century learning, so that
11 topic was covered.

12 Q. And what did you learn?

13 A. I'm not clear on the
14 question.

15 Q. What do you recall -- do you
16 recall that topic being covered?

17 A. Yes, technology in the
18 classroom was covered.

19 Q. And what do you recall about
20 that lesson or that course?

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: I recall it
24 being covered as a form of
25 instruction or a means to provide

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1 education.

2 BY MR. KARP:

3 Q. Technology as a tool to
4 teach students?

5 A. I don't --

6 Q. Is that what you mean?

7 A. What do you mean by
8 "technology is a tool to teach students"?

9 Q. You mentioned or you
10 testified a minute ago that you recall it
11 being covered as a form of instruction and
12 I was trying to clarify if you meant that
13 you learned about technology as a way to
14 educate students.

15 A. Twenty-first century
16 instruction, 21st century learning, that's
17 a -- that's just a direction, a desired
18 direction that schools want to go in.
19 Technology as a form of instruction, I'm
20 unclear on what you mean by that.

21 Q. And those are the words that
22 you used a few minutes ago. You said
23 technology as a form of instruction and I
24 was just trying to clarify what you meant
25 by that?

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1 MR. RIVERA: Object to form.

2 Mischaracterizes his testimony.

3 BY MR. KARP:

4 Q. Earlier you used the words,
5 "technology as a form of instruction"?

6 A. Can you give me the full
7 context of that response.

8 Q. I asked, "And what do you
9 recall about that lesson or that course?"
10 Your counsel objected and then you stated,
11 "I recall it being covered as a form of
12 instruction or a means to provide
13 education."

14 And I just was wondering if
15 you could clarify.

16 A. Okay. So meaning if you're
17 providing instruction by use of a Smart
18 Board or you're providing instruction by
19 use of some digital educational resource,
20 but that's what I mean by that.

21 Q. Thank you. Did any of
22 your -- to the extent that this topic was
23 covered during your certification program,
24 do you recall studying cell phone use,
25 student cell phone use?

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1 MR. RIVERA: Objection to
2 form.

3 THE WITNESS: No.

4 BY MR. KARP:

5 Q. From 2019 -- strike that.
6 You earned your doctorate in
7 educational leadership from Trident
8 University in December of 2023; is that
9 right?

10 A. Yes.

11 Q. Did any of your
12 coursework -- did any of the coursework you
13 completed to earn that degree relate to
14 student use of social media?

15 MR. RIVERA: Object to form.

16 THE WITNESS: Can you repeat
17 the question?

18 BY MR. KARP:

19 Q. Sure. Did any of the
20 coursework that you completed to earn your
21 doctorate degree involve student use of
22 social media?

23 MR. RIVERA: Same objection.

24 THE WITNESS: I don't recall,
25 no.

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1 BY MR. KARP:

2 Q. Did any of the coursework
3 you completed to earn your doctorate degree
4 involve student use of technology?

5 A. No. That my doctorate, that
6 wasn't the focal point.

7 Q. What was the focal point of
8 your doctorate?

9 A. Educational leadership.

10 Q. Can you be more specific as
11 to whether -- or strike that.

12 Was there a particular focus
13 within educational leadership?

14 A. No.

15 Q. I'm handing you tab four,
16 which we can mark as Exhibit 2.

17 MR. RIVERA: You can take a
18 moment to look over the document.

19 - - - - -

20 (Dissertation Bates
21 BW__Irvington00084775 to 84880
22 marked Zahir Exhibit 2 for
23 identification.)

24 - - - - -

25

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1 BY MR. KARP:

2 Q. The document I handed you is
3 titled, "Teacher Efficacy While Using
4 Culturally Responsive Pedagogy for African
5 American Students in Urban Public
6 Education." And you are listed as the
7 author of this.

8 Do you see that?

9 A. Yes.

10 Q. Do you recognize this
11 document?

12 A. Yes.

13 Q. What is this document?

14 A. It appears to be my
15 dissertation.

16 Q. And is this the final
17 dissertation that you -- that you defended
18 or is this a proposal?

19 A. I would have to read the
20 whole thing to --

21 Q. On the cover page here, it
22 says, "Defended mm dd, year." Does that
23 refresh your memory of whether this is a
24 proposal or the final dissertation?

25 A. Again, I'm not sure. Yeah,

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1 I'm not sure if this is the final or not
2 the final.

3 Q. Understood. Can you tell me
4 a bit about this dissertation?

5 MR. RIVERA: Object to form.

6 THE WITNESS: I don't
7 understand the question.

8 BY MR. KARP:

9 Q. The title of this
10 dissertation, as I mentioned a minute ago,
11 is, "Teacher Efficacy While Using
12 Culturally Responsible Pedagogy for African
13 American Students in Urban Public
14 Education."

15 Do you see that?

16 A. Yes.

17 Q. What issues do you address
18 in your dissertation?

19 A. Teacher pedagogy and the
20 importance of it for -- to be culturally
21 responsive when providing education to
22 kids.

23 Q. Is there a particular
24 position or art -- excuse me, strike that.

25 Is there a particular

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1 position that you take in this dissertation
2 or argument that you make in this
3 dissertation?

4 MR. RIVERA: Object to form.

5 THE WITNESS: No.

6 BY MR. KARP:

7 Q. Can you describe for me the
8 main themes of your dissertation?

9 A. Outside of the title?

10 Q. Yes.

11 A. It's the importance of
12 culturally responsive pedagogy in urban
13 education, that's the theme.

14 Q. Let's turn to the page
15 ending in 4786 in the bottom right-hand
16 corner. Just let me know when you get
17 there.

18 A. I'm there.

19 Q. And if we look about halfway
20 down the page, there's a title here, "Why
21 Culturally Responsive Teaching is needed in
22 Urban Public School Settings."

23 Do you see that?

24 A. Yes.

25 Q. You wrote, "Our urban K

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1 through 12 school population is becoming
2 increasingly diverse," and then you cite to
3 a study.

4 Do you see that?

5 A. Yes.

6 Q. You go on to write, "There
7 is a significant discrepancy between the
8 students in urban schools and the staff in
9 the same environment that is largely White
10 and Middle class." And then you cite to
11 another study.

12 Do you see that?

13 A. Yes.

14 Q. Okay. What did you mean
15 when you wrote that?

16 A. Those are cited. Those are
17 quotes from other publications. Those are
18 not my words.

19 Q. And I apologize, I didn't
20 see quotation marks. I didn't realize that
21 you were quoting from studies?

22 A. It's cited at the end.

23 Q. You're citing to these
24 studies as your source for the -- for the
25 statement, correct?

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1 A. Yes.

2 MR. RIVERA: Object to form.

3 BY MR. KARP:

4 Q. Okay. You wrote this in
5 your dissertation, correct?

6 A. I believe so, yes.

7 Q. So when you wrote that,
8 "There is a significant discrepancy between
9 the students in urban schools and the staff
10 in the same environment that is largely
11 White and Middle class," what did you mean
12 by that?

13 A. I don't understand the
14 question.

15 Q. What does that statement
16 mean to you?

17 MR. RIVERA: Object to form.

18 THE WITNESS: What do I think
19 about what Rubel wrote?

20 BY MR. KARP:

21 Q. Yes.

22 A. I'm thinking he meant the
23 difference in race and culture.

24 Q. Is this a true statement?

25 MR. RIVERA: Object to form.

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1 THE WITNESS: I don't
2 understand.

3 BY MR. KARP:

4 Q. Do you believe that this is
5 true?

6 A. Do I believe what Rubel
7 stated is Rubel's truth or do I believe --
8 I don't understand the question.

9 Q. Do you believe it's true
10 that there is a significant discrepancy
11 between the students in urban schools and
12 the staff in the same environment that is
13 largely white and middle class?

14 A. I'm not clear on how to
15 answer that question.

16 Q. How can I help you? How can
17 I clarify?

18 A. You're asking me do I
19 believe that this statement is true. I
20 think that's based on the selection from
21 which he was pulling. If there was a
22 hypothetical where you had a school with
23 all black kids and the teachers were all
24 white, that would make the statement true.

25 Q. Do you believe that there is

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1 a significant discrepancy between the
2 students -- or strike that.

3 Do you believe that this
4 statement applies to Union Avenue Middle
5 School?

6 MR. RIVERA: Object to form.

7 THE WITNESS: No.

8 BY MR. KARP:

9 Q. So in your view, there is
10 not a significant discrepancy between are
11 the students at Union Avenue Middle School
12 and their staff?

13 A. I'm not sure what area of
14 significance he is talking about. My
15 example was if we're talking about race,
16 just population and cultural backgrounds in
17 this particular building, no. But I don't
18 know what this author's significance was
19 specifically speaking to.

20 Q. Let's turn to the page
21 ending in 4790. This section is titled,
22 "Outside Influences and Academic
23 Disconnection."

24 Do you see that?

25 A. Yes.

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1 Q. Partway down the page, there
2 is a statement, "They frequently are in
3 classrooms where teachers' perceptions of
4 them come from a place of stereotypes and
5 generalizations, especially from educators
6 who do not come from the environments in
7 which they are teaching."

8 Do you see that?

9 A. Yes.

10 Q. Do you believe that that
11 statement applies in any way to Union
12 Avenue Middle School?

13 MR. RIVERA: Objection to
14 form.

15 THE WITNESS: I can't -- I
16 don't know how to answer that
17 question as it applies to Union
18 Avenue. I would have to ask the
19 teachers their perception.

20 BY MR. KARP:

21 Q. As principal of Union Avenue
22 Middle School, do you know one way or
23 another whether this is a true statement?

24 MR. RIVERA: Objection to
25 form.

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1 BY MR. KARP:

2 Q. Or strike that.

3 As principal of Union Avenue
4 Middle School, do you know whether or not
5 this statement applies to the teachers in
6 this school?

7 MR. RIVERA: Objection to
8 form. Asked and answered.

9 MR. KARP: You can answer the
10 question.

11 THE WITNESS: I thought I did.

12 BY MR. KARP:

13 Q. I'm sorry, I don't see an
14 answer on the record. I can ask the
15 question again.

16 As principal of Union Avenue
17 Middle School, do you know whether teachers
18 in this school have the perceptions that
19 you describe here in your dissertation?

20 A. I don't know how to answer
21 the question. I would have to ask the
22 teachers their perception.

23 Q. And you have not done that?

24 MR. RIVERA: Objection, form.

25 THE WITNESS: Have I asked the

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1 teachers what are their perceptions
2 and stereotypes of their students?

3 BY MR. KARP:

4 Q. Yeah.

5 A. No.

6 Q. If we look at the next
7 paragraph it starts, "This level of
8 misunderstanding can lead to academic
9 disconnection, or lack of connection with
10 learning, which can significantly hurt our
11 African American male students and lead to
12 withdrawal from challenging classes,
13 dropping out of school entirely, and
14 delinquency."

15 Do you see that?

16 A. Yes.

17 Q. And that's what you wrote in
18 your dissertation, correct?

19 A. That is a quote from
20 Hawkins-Jones and Reeves.

21 Q. And you wrote that in your
22 dissertation, right?

23 A. I added it to my
24 dissertation.

25 Q. And do you believe that this

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1 is a true statement?

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: I don't -- I
5 don't know how to answer that
6 question, do I believe it's true or
7 not.

8 BY MR. KARP:

9 Q. Do you believe that there
10 are levels of misunderstanding between
11 students and teachers that can lead to
12 academic disconnection here at Union Avenue
13 Middle School?

14 MR. RIVERA: Objection to
15 form.

16 THE WITNESS: I'm not sure how
17 you want me to answer the question.

18 BY MR. KARP:

19 Q. Truthfully.

20 A. I understand. I'm not clear
21 on -- and you're asking me as it applies to
22 Union Avenue?

23 Q. Yes.

24 A. I mean, if this is a
25 possibility, I don't look at it as the sole

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1 reason for those outcomes that are listed,
2 that they listed.

3 Q. Let's turn back a few pages
4 to the page ending in 4779. At the very
5 bottom of the page, you wrote, Some would
6 argue that African American students
7 struggle from the effects of their
8 socioeconomic environment."

9 Do you see that?

10 A. Yes.

11 Q. And then you go onto write,
12 "Poverty, racial bias (perceived and
13 observed), environmental disadvantages,
14 impoverished schools, and stress can lead
15 to behavioral, academic, and psychological
16 difficulties among African American
17 children," And then you cite to a number of
18 sources.

19 Do you see that?

20 A. Yes.

21 Q. Do you believe that that's a
22 true statement?

23 A. I believe that some will
24 argue that, yes.

25 Q. When you say that some would

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1 argue -- or strike that.

2 My question is whether you
3 believe that this is a true statement?

4 MR. RIVERA: Object to form.

5 THE WITNESS: Do I believe
6 that some would argue that, yes.

7 BY MR. KARP:

8 Q. Do you believe that poverty,
9 racial bias, perceived and observed,
10 environmental disadvantages, impoverished
11 schools, and stress can lead to behavioral,
12 academic, and psychological difficulties
13 among African American children?

14 A. My belief is that those
15 things would affect all children.

16 Q. Including children at Union
17 Avenue Middle School?

18 A. All children.

19 Q. Let's turn to the page
20 ending 4824. You wrote that, "For this
21 study, the researcher will use social media
22 platforms such as Facebook, Instagram, and
23 LinkedIn to solicit participants."

24 Do you see that?

25 A. Yes.

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1 Q. "The researcher will use
2 social media groups specifically designed
3 for educators."

4 Do you see that?

5 A. Yes.

6 Q. Is that something that you
7 did?

8 A. Yes.

9 Q. A couple of sentences down,
10 you wrote, "The use of social media as a
11 recruitment tool for research with humans
12 is increasing and likely to continue to
13 grow."

14 Do you see that?

15 A. Yes.

16 Q. Let's turn back one page to
17 4823. At the bottom of the page you wrote
18 this -- excuse me, strike that.

19 At the bottom of this page,
20 you wrote, "This researcher has over 4,000
21 Facebook friends, is linked to more than 20
22 groups for educators, and has over 500
23 LinkedIn affiliates."

24 Do you see that?

25 A. Yes.

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1 Q. "This researcher," as it's
2 used here, does that refer to you?

3 A. Yes.

4 Q. And was that true at the
5 time that you wrote your dissertation?

6 A. I believe so.

7 Q. Do you stand behind what's
8 written in your dissertation?

9 MR. RIVERA: Object to form.

10 THE WITNESS: I don't
11 understand the question.

12 BY MR. KARP:

13 Q. Is there anything in this
14 dissertation -- excuse me, strike that.

15 Is there anything in your
16 dissertation that you believe not to be
17 true?

18 MR. RIVERA: Object to form.

19 THE WITNESS: I don't
20 understand -- I don't understand
21 the nature of the question based
22 upon the dissertation.

23 BY MR. KARP:

24 Q. Is there any information in
25 this dissertation that you disagree with?

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1 A. I think it's possible.

2 Q. You possibly disagree with
3 the things you wrote in your dissertation?

4 A. It's a dissertation. It's a
5 collection of research. There may be
6 things that I possibly don't agree with.
7 That doesn't mean it doesn't support the
8 research.

9 Q. Is there any part of your
10 dissertation -- or strike that.

11 Do you believe any part of
12 this dissertation to be false?

13 MR. RIVERA: Object to form.
14 You've also put a document in front
15 of him that's over a hundred pages
16 long and he hasn't had an
17 opportunity to look through it and
18 we don't know the exact date of
19 this draft either.

20 MR. KARP: I appreciate the
21 objection. You produced this
22 document and it's his dissertation
23 that I presume that he worked on
24 for a long time.

25 THE WITNESS: I don't

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1 understand the question that you're
2 asking me.

3 BY MR. KARP:

4 Q. Sitting here today, is there
5 any part of your dissertation that you
6 would change?

7 A. That I would change?

8 Q. Yes.

9 MR. RIVERA: Object to form.

10 THE WITNESS: I would say no,
11 because I was -- it was
12 successfully defended and they call
13 me doctor now, I don't want to
14 change it.

15 BY MR. KARP:

16 Q. Understood. You can put
17 this to the side.

18 A. Okay.

19 Q. Aside from your
20 dissertation, are you the author of any
21 articles or studies relating to education?

22 MR. RIVERA: Objection to
23 form.

24 THE WITNESS: In my lifetime?
25

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1 BY MR. KARP:

2 Q. Yes.

3 A. I'm not sure. I don't
4 recall.

5 Q. You don't recall whether
6 you've written any articles relating to
7 education?

8 A. I don't recall. It has
9 been, like, 26 years. I don't recall.

10 Q. Have you conducted any
11 studies -- sorry, strike that.

12 Other than your
13 dissertation, have you conducted any
14 studies regarding education?

15 MR. RIVERA: Object to form.

16 THE WITNESS: I'm not sure
17 how -- regarding education?

18 BY MR. KARP:

19 Q. Yeah.

20 A. What do you mean by,
21 "studies"?

22 Q. A study could involve
23 identifying a population of people and
24 conducting a survey, for example.

25 A. Yes.

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1 MR. RIVERA: Object to form.

2 BY MR. KARP:

3 Q. You've -- okay. Tell me
4 about any studies that you have done
5 relating to education.

6 MR. RIVERA: Objection to
7 form.

8 THE WITNESS: It's such a
9 vague question, can you be more
10 specific?

11 BY MR. KARP:

12 Q. Can you give me some
13 examples and then I can maybe help you
14 narrow it down?

15 MR. RIVERA: Objection to
16 form. He said it's a little vague.
17 You can reframe your question.

18 BY MR. KARP:

19 Q. You told me that you've
20 conducted studies relating to education,
21 correct?

22 A. I said yes to your question.

23 Q. And what did you mean by
24 that?

25 A. Based upon the -- your

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1 explanation of your question, any surveys
2 or studies of population in education, my
3 answer is yes, this is -- there are times
4 throughout the year where we have to do
5 that just as principals.

6 Q. Tell me more about that.

7 A. About a principal gathering
8 data?

9 Q. Is it your testimony that
10 you perform or conduct surveys in your role
11 as principal of Union Avenue Middle School?

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: Yes.

15 BY MR. KARP:

16 Q. What surveys?

17 A. We do a climate and culture
18 survey in our building.

19 Q. How often do you do these
20 climate and culture surveys?

21 A. Once a year.

22 Q. Do you write the questions
23 for those surveys?

24 A. Do I personally write them?
25 I didn't for this one, no.

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1 Q. Have you done that in the
2 past?

3 A. In this building?

4 Q. I'm talking specifically
5 about Union Avenue Middle School.

6 A. No.

7 Q. So to make sure we're on the
8 same page, you've never written the
9 questions for a climate and culture survey
10 that has been given at Union Avenue Middle
11 School?

12 A. No.

13 Q. Have you written questions
14 for climate and culture surveys given at
15 other schools?

16 A. I don't recall.

17 Q. What topics are covered in
18 the climate and culture surveys that are
19 given at Union Avenue Middle School?

20 A. There would possibly be
21 something about the opinions of the school
22 environment, things like that.

23 Q. Are all students at Union
24 Avenue Middle School asked to complete
25 these climate and culture surveys?

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1 A. No.

2 Q. Which students complete the
3 climate and culture surveys at Union Avenue
4 Middle School?

5 A. I'm not sure if it was
6 presented to the students or if it was
7 presented to the staff.

8 Q. So these surveys might have
9 been conducted of the staff and not the
10 students?

11 A. This particular one I'm
12 talking about, I believe it's for the
13 staff.

14 Q. And when you say -- the
15 climate and culture survey you have in
16 mind, is that for the 2024-2025 school
17 year?

18 A. Yes. No, I'm sorry, so I
19 would say yes if the data is collected for
20 2024-25.

21 Q. When was the survey
22 completed or given out to participants?

23 MR. RIVERA: Object to form.

24 THE WITNESS: It was given out
25 two days ago.

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1 BY MR. KARP:

2 Q. Oh. So the data is being
3 collected in this school year for
4 2024-2025?

5 A. Yes.

6 Q. And your testimony is you
7 don't know whether that survey was given to
8 staff or to students?

9 MR. RIVERA: Object to form.

10 MR. KARP: -- or potentially
11 both?

12 MR. RIVERA: Object to form.

13 THE WITNESS: That one was to
14 staff. You're asking me specifics
15 when before it was a general. So,
16 specifically, that particular one
17 was for staff.

18 BY MR. KARP:

19 Q. And my questions earlier
20 about climate and culture surveys to
21 students. I was asking about studies of
22 students.

23 A. No.

24 Q. Since you became principal
25 of Union Avenue Middle School in 2023, have

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1 there been any climate and culture surveys
2 of students?

3 A. No.

4 Q. While you were principal at
5 Mount Vernon Avenue Elementary School, were
6 there any climate and culture surveys of
7 those students?

8 MR. RIVERA: Objection to
9 form.

10 THE WITNESS: Not that I
11 recall.

12 BY MR. KARP:

13 Q. Can you think of any other
14 time that you have studied or conducted a
15 study of students?

16 MR. RIVERA: Objection to
17 form.

18 THE WITNESS: I don't
19 understand the question.

20 BY MR. KARP:

21 Q. Can you think of any other
22 time that you've conducted a survey of
23 students?

24 A. I'm sure I have, but I can't
25 think of one off the top of my head.

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1 Q. Have you conducted any
2 research regarding social media?

3 MR. RIVERA: Objection to
4 form, vague.

5 THE WITNESS: Can you define
6 "research"?

7 BY MR. KARP:

8 Q. Have you collected data or
9 statistics regarding student use of social
10 media?

11 MR. RIVERA: Objection to
12 form.

13 THE WITNESS: No.

14 BY MR. KARP:

15 Q. Have you performed any
16 research or analysis of the potential
17 impact social media could have on students?

18 MR. RIVERA: Object to form.

19 THE WITNESS: Can you define
20 "analysis"?

21 BY MR. KARP:

22 Q. Have you written any
23 articles -- or strike that.

24 Let's move on and we'll come
25 back to this. Have you read the legal

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1 Complaint that Irvington Public Schools has
2 filed in this lawsuit?

3 A. I can't say that I read it,
4 no.

5 Q. You told me that this is
6 your first deposition, correct?

7 A. Yes.

8 Q. Have you ever provided
9 testimony at trial?

10 A. For this?

11 Q. No, in general.

12 A. Yes.

13 Q. When was that?

14 A. There were multiple ones. I
15 don't know the exact dates.

16 Q. Can you approximate how many
17 times you provided testimony at trial?

18 A. Oh, I would probably say
19 more than five, less than 15. I'm not
20 sure. Is there, I'm sorry, is there --
21 does it matter whether it was during a
22 trial or at sentencing?

23 Q. It does not matter.

24 A. Okay.

25 Q. Thank you for clarifying.

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1 To the extent you can remember these cases,
2 I want to talk about a little bit about
3 what they were about. Were any of these
4 cases that you testified in at trial, did
5 any of them involve student use of social
6 media?

7 MR. RIVERA: Object to form.

8 THE WITNESS: I'm not sure how
9 to answer that question.

10 BY MR. KARP:

11 Q. Did any of the testimony you
12 provided at trial in these five to 15 cases
13 relate to a student's use of social media?

14 MR. RIVERA: Object to form.

15 THE WITNESS: Is there a
16 distinction between current student
17 and former student?

18 BY MR. KARP:

19 Q. No.

20 A. Yes.

21 Q. Is there one particular case
22 or multiple cases where that's true?

23 MR. RIVERA: Object to form.

24 THE WITNESS: I believe
25 multiple.

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1 BY MR. KARP:

2 Q. Do you recall when you gave
3 testimony in those cases?

4 A. I can't recall the date.

5 Q. Are you able to approximate
6 or estimate when you would have provided
7 testimony in those cases?

8 MR. RIVERA: Object to form.

9 THE WITNESS: I believe
10 possibly within the last three
11 years.

12 BY MR. KARP:

13 Q. Did any of those cases
14 involve IPS students?

15 A. No.

16 Q. To the extent that you've
17 provided testimony at trial, did any of
18 your testimony -- has any of your testimony
19 ever related to adolescent mental health?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: I don't
23 understand the question.

24 BY MR. KARP:

25 Q. Have you ever provided

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1 testimony at trial about the mental health
2 of a student?

3 A. A current student?

4 Q. Current or former.

5 A. Yes.

6 Q. And what were those cases
7 about?

8 MR. RIVERA: Objection to
9 form.

10 THE WITNESS: I don't
11 understand the question.

12 BY MR. KARP:

13 Q. How many cases do you recall
14 where you provided testimony regarding the
15 mental health of this student?

16 MR. RIVERA: I'm going to
17 object to form to this line of
18 questioning. It's completely
19 outside the scope of this
20 deposition, and it's completely
21 irrelevant to the deposition and
22 the case at hand.

23 MR. KARP: Okay. Noted. You
24 can answer.

25 THE WITNESS: Can you repeat

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1 the question?

2 BY MR. KARP:

3 Q. You testified that you had
4 provided testimony at trial regarding the
5 mental health of a student, correct?

6 A. Former student.

7 Q. Of a former student.

8 A. Yes. Yes.

9 Q. Is that just one case?

10 A. No, the mental health of the
11 individual was mentioned each time.

12 Q. What do you mean, "each
13 time"?

14 A. Each time that I spoke, I
15 spoke to the individual's mental health.

16 Q. And just to take a step back
17 here, I'm trying to understand kind of what
18 testimony you have provided at trial and I
19 would like to walk through or understand
20 kind of each of these cases to the extent
21 that there are multiple cases. So that's
22 just to give you the context of where I'm
23 headed here and maybe that will help us
24 along.

25 A. I don't -- I'm trying to

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1 understand the connectivity between my
2 history speaking on behalf or testifying
3 for individuals that were former students
4 with what we're doing here. I'm confused.

5 Q. You told me that you
6 provided testimony at trial about the
7 mental health of a former student, correct?

8 A. Yes.

9 Q. And is it your testimony
10 that you've provided that testimony on
11 multiple occasions?

12 A. The same testimony?

13 Q. Have you provided testimony
14 regarding the mental health of a former
15 student in multiple cases?

16 A. It's always been a question
17 of me speaking on behalf of the
18 individual's mental health.

19 Q. And roughly -- in roughly
20 how many cases have you provided testimony
21 regarding the mental health of a former
22 student?

23 A. I can't recall the exact
24 number. But I think it's pretty -- a
25 pretty standard question, can you speak to

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1 this individual's mental health.

2 MR. RIVERA: Counsel, we have
3 been going for a bit over an hour,
4 it might be a good time for a break
5 and we can get back to this.

6 MR. KARP: I'm in the middle
7 of a line of questioning, so as
8 soon as I'm done asking a
9 question --

10 MR. RIVERA: There's no
11 current question pending. You
12 asked a question, he answered it.
13 We're entitled to a break.

14 MR. KARP: I'm getting --

15 MR. RIVERA: We can get
16 back --

17 MR. KARP: I'm getting to a
18 stopping point in a few minutes and
19 I can try to wrap this up, okay?

20 MR. RIVERA: There's not a
21 current question pending. You
22 asked a question, he answered. You
23 can get back to this line of
24 questioning after a short break.

25 MR. KARP: Let's go off the

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1 record.

2 THE VIDEOGRAPHER: The time
3 right now is 10:46 a.m. We are off
4 the record.

5 - - - - -

6 (A recess was taken at this time.)

7 - - - - -

8 THE VIDEOGRAPHER: The time
9 right now is 10:59 a.m. and we're
10 back on the record.

11 BY MR. KARP:

12 Q. Welcome back, Dr. Zahir.

13 A. Uh-huh.

14 Q. Before the break, you told
15 me that you provided testimony at trial
16 roughly five to 15 times; is that right?

17 MR. RIVERA: Object to form.
18 You can answer.

19 THE WITNESS: Between that,
20 I'm not sure how many times I was
21 asked to come in and talk.

22 BY MR. KARP:

23 Q. Did any of those cases where
24 you provided testimony at trial relate to
25 the potential impact of social media on the

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1 mental health of a student or former
2 student?

3 MR. RIVERA: Object to form.
4 You can answer.

5 THE WITNESS: No.

6 BY MR. KARP:

7 Q. Did any of the testimony you
8 provided at those cases relate to the
9 potential impact of social media on the
10 mental health of a student or former
11 student?

12 MR. RIVERA: Object to form.

13 THE WITNESS: No.

14 BY MR. KARP:

15 Q. Did any of those cases --
16 or strike that.

17 When you have provided
18 testimony at trial, did any of that
19 testimony relate to the potential impact of
20 technology on the mental health of a
21 student or former student?

22 A. Can you repeat the question?

23 Q. Sure. To the extent that
24 you've provided testimony at trial, has any
25 of that testimony related to the potential

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1 impact of technology, such as a cell phone,
2 on the mental health of a student or former
3 student?

4 MR. RIVERA: I'm just going to
5 object. I want to clarify that the
6 testimony he provided wasn't at a
7 trial, it was during a subsequent
8 phase, a sentencing or sentence
9 reduction situation.

10 BY MR. KARP:

11 Q. So let's back up. I'll
12 withdraw my question.

13 Dr. Zahir, to the extent
14 that you've provided testimony, you
15 provided this testimony at sentencing?

16 A. Yes.

17 Q. Okay. Not during an actual
18 trial in front of -- strike that.

19 Not during the earlier
20 phases of a trial as to whether that
21 particular individual was actually guilty
22 of a crime?

23 A. No.

24 Q. When you provided -- so just
25 to kind of reask my questions here, when

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1 you provided testimony during the
2 sentencing phase, did any of that testimony
3 relate to the potential impact of social
4 media on the mental health of a student or
5 former student?

6 A. No.

7 Q. Did any of that testimony
8 relate to the potential impact of
9 technology, such as a cell phone, on the
10 mental health of a student or former
11 student?

12 MR. RIVERA: Object to form.
13 You can answer.

14 THE WITNESS: No.

15 BY MR. KARP:

16 Q. Did you do anything to
17 prepare for today's deposition?

18 A. I don't understand the
19 question.

20 Q. In advance of today's
21 deposition, did you meet with your counsel?

22 A. You mean the people here?

23 Q. Yes.

24 A. Oh. Yes.

25 MS. HENRY: And people from

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1 their firms. It doesn't have to be
2 just these two.

3 THE WITNESS: Okay, yes.

4 BY MR. KARP:

5 Q. And I'll ask a broader
6 question to hopefully get us on the same
7 page. In advance of this deposition, did
8 you meet with your lawyers?

9 A. You're talking about the
10 same people?

11 Q. In advance of this
12 deposition, did you meet with any lawyers?

13 A. I don't understand the
14 question. I'm not trying to be difficult.

15 Q. And I'm trying to think of
16 another way --

17 A. Other than --

18 Q. I'm trying to think of
19 another way to ask the question to clarify.

20 MS. SCULLION: I think the
21 witness was suggesting his point of
22 clarification, what's your points
23 of clarification?

24 THE WITNESS: Did I meet with
25 anyone other than --

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1 MS. HENRY: Right. Like, it
2 could be these two or it could be
3 other individuals from their firm
4 or it could be another lawyer who
5 is also representing the Plaintiffs
6 in this litigation. So Andrew is
7 saying, he's not -- these two or
8 other people representing
9 Plaintiffs.

10 THE WITNESS: Other than their
11 company or their firm?

12 MS. HENRY: Their side.

13 BY MR. KARP:

14 Q. I'm sorry, let's take a big
15 step back.

16 A. Okay.

17 Q. Sorry, reset. Did you meet
18 with lawyers to prepare for today's
19 deposition?

20 A. Yes.

21 Q. Who?

22 A. Them.

23 Q. And who is them?

24 A. I don't have the name of the
25 company committed to --

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1 Q. Who are the individuals?

2 MS. HENRY: Individuals he
3 asked --

4 MR. KARP: Yeah, who are --
5 and sorry, who are the individuals
6 you're referring to and what are
7 their names?

8 THE WITNESS: Oh, I feel bad,
9 I don't know.

10 MS. SCULLION: It's okay. It
11 happens for every single witness
12 and every single deposition, so,
13 yes, he's referring to Carlos
14 Rivera and myself, Jennifer
15 Scullion.

16 BY MR. KARP:

17 Q. Other than Carlos and
18 Jennifer, did you meet with any lawyers?

19 A. Yes.

20 Q. Do you remember their names?

21 A. I have no idea.

22 Q. Were they with the same law
23 firm?

24 A. I believe so.

25 Q. Roughly, how many lawyers --

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1 roughly, how many additional lawyers were
2 there?

3 A. Three.

4 MR. RIVERA: Object to form.

5 You can answer.

6 BY MR. KARP:

7 Q. Did you meet with any
8 lawyers for the district itself?

9 A. No.

10 Q. Putting aside the lawyers,
11 did you meet with anyone else to prepare
12 for today's deposition?

13 A. No.

14 Q. Did you review any documents
15 to prepare for today's deposition?

16 A. I don't understand --

17 MR. RIVERA: I'm going to
18 object to the extent that if you
19 can answer without disclosing
20 attorney-client privilege or
21 getting into attorney work product,
22 meaning documents shown to you by
23 your attorneys, you can respond.

24 THE WITNESS: Yes.

25

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1 BY MR. KARP:

2 Q. And were those documents
3 that you identified?

4 A. I don't understand the
5 question.

6 Q. You just told me that you
7 reviewed documents to prepare for today's
8 deposition, correct?

9 A. I didn't say that, but you
10 said did I review any documents.

11 Q. The question I asked was,
12 did you review any documents to prepare for
13 today's deposition, and then the answer you
14 gave was yes?

15 A. Okay. So maybe I just heard
16 review any documents.

17 Q. So you did not look at any
18 documents to prepare for today's
19 deposition?

20 A. Yes, I looked at documents.

21 Q. What documents did you look
22 at?

23 MR. RIVERA: I'm going to
24 object and I'm going to instruct
25 the witness to the extent there

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1 were documents outside of what was
2 shown to you by counsel, you can
3 answer to that. The documents
4 shown to you by counsel are
5 protected by the attorney work
6 product and you don't have to
7 disclose any information.

8 MR. KARP: Okay. You may
9 answer to the extent that you can.

10 THE WITNESS: I just got even
11 more confused.

12 MR. RIVERA: Let's try to
13 clarify. Are there documents
14 outside of anything that was shown
15 to you by your attorneys that you
16 reviewed individually or separately
17 and apart to prepare for today?

18 BY MR. KARP:

19 Q. I will ask the question. I
20 appreciate that, Carlos.

21 You reviewed documents to
22 prepare for today's deposition, correct?

23 A. Yes.

24 Q. Okay. And were all of those
25 documents -- or strike that.

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1 Were any of those documents
2 provided to you by counsel?

3 A. Yes.

4 Q. Put those to the side. Did
5 you review any other documents?

6 A. Meaning on my own?

7 Q. Yes.

8 A. Like research and stuff?

9 Q. Any documents you would have
10 looked at to prepare for today's
11 deposition.

12 A. No.

13 Q. So the documents you
14 reviewed were provided by counsel?

15 A. Yes.

16 Q. Did any of those documents
17 refresh your recollection of facts or
18 information for today's deposition?

19 A. I don't understand the
20 question.

21 Q. In reviewing these
22 documents, did any of them refresh your
23 memory of information you once knew and
24 maybe had forgotten?

25 MR. RIVERA: Object to form.

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1 You can answer.

2 THE WITNESS: I can't really
3 recall. I don't know if I forgot
4 it, you know.

5 BY MR. KARP:

6 Q. Regardless of whether you
7 had forgotten or not, did any refresh --
8 did any of these documents refresh your
9 memory?

10 MR. RIVERA: Objection. Asked
11 and answered.

12 THE WITNESS: I don't know how
13 to answer that question.

14 BY MR. KARP:

15 Q. Did you take any notes while
16 preparing for today's deposition?

17 A. No.

18 Q. Did you bring anything with
19 you to today's deposition?

20 A. A cup of coffee.

21 Q. Dr. Zahir, have you ever
22 been charged with a crime?

23 A. No.

24 Q. At IPS or elsewhere, have
25 you ever been subject to disciplinary

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1 action in your professional capacity?

2 A. What do you mean?

3 Q. In the course of your job or
4 any of your jobs, have you ever been
5 subject to disciplinary action?

6 MR. RIVERA: Objection to
7 form. You can answer.

8 THE WITNESS: I'm not clear,
9 subjected to or disciplined, are
10 you saying they're the same?

11 BY MR. KARP:

12 Q. In your -- in any of your
13 jobs, have you been -- have you been
14 disciplined?

15 MR. RIVERA: Objection to
16 form. You can answer.

17 THE WITNESS: I received a
18 write-up. Yes, I received a
19 write-up.

20 BY MR. KARP:

21 Q. When did you receive a
22 write-up?

23 A. I want to say late winter,
24 early spring 2023.

25 Q. And at that time, were you a

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1 principal at Mount Vernon?

2 A. Yes.

3 Q. And what was the write-up
4 for?

5 A. Do you really want to know?

6 Q. I do.

7 A. I went to a funeral that I
8 had permission to go to.

9 Q. Thank you. I'm sorry for
10 your loss.

11 A. I thought it was bogus too,
12 so.

13 Q. And I'm also sorry for your
14 loss.

15 Have you ever been
16 investigated for any alleged misconduct in
17 any of your jobs?

18 MR. RIVERA: Objection to
19 form, vague.

20 THE WITNESS: Can you be clear
21 on investigated?

22 BY MR. KARP:

23 Q. Has there ever been an
24 investigation of your conduct regarding
25 allegations that were made while you were

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1 in any professional role?

2 MR. RIVERA: Objection to
3 form, foundation.

4 THE WITNESS: Like by the
5 police?

6 BY MR. KARP:

7 Q. By -- and if you don't
8 understand the question, it's fine just to
9 tell me that you need me to clarify and I'm
10 happy to do that. An investigation by
11 anyone, it could be law enforcement, it
12 could be other administrators within the
13 district.

14 A. I'm not clear on how to
15 answer the question. A situation was
16 investigated. I can't say I was
17 investigated, but a situation was
18 investigated.

19 Okay. Tell me more about
20 that.

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

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[REDACTED]

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■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED]
■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED]

3 BY MR. KARP:

4 Q. And this was -- sorry,
5 strike that.

6 When did this happen?

7 A. Oh, I'm not sure of the
8 date. I don't know exactly the date.

9 Q. Were you employed by
10 Irvington Public Schools at the time?

11 A. No.

12 Q. Okay. This predates your
13 time at Irvington Public Schools?

14 A. Oh, yes.

15 Q. Circling back to the
16 write-up you received for attending the
17 funeral, what were the consequences of that
18 write-up?

19 A. It was just a write-up.

20 Q. And for many of us who
21 aren't familiar with the significance of a
22 write-up, can you tell me whether there was
23 some pause in your employment or anything
24 like that?

25 A. No, it was just a noted

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1 document, a document to note that there was
2 a meeting addressing the action. No pause
3 in pay, no suspension or anything like
4 that.

5 Q. What is your understanding
6 of the allegations that have been made in
7 this lawsuit?

8 MR. RIVERA: Objection.

9 THE WITNESS: I'm not sure I
10 understand the question.

11 BY MR. KARP:

12 Q. What is your understanding
13 of this lawsuit?

14 MR. RIVERA: Objection to
15 form, vague.

16 THE WITNESS: There's a claim
17 that the use of social media has an
18 adverse effect on students and
19 their education.

20 BY MR. KARP:

21 Q. And where did you get that
22 understanding of the lawsuit?

23 A. I'm not sure how to answer
24 that question.

25 Q. Did you read any documents

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1 that gave you that understanding of the
2 lawsuit?

3 A. I don't recall reading
4 documents. I don't recall. I can't say
5 that -- I'm not sure.

6 Q. Do you recall if you got
7 that understanding of the lawsuit from
8 speaking to other individuals?

9 MR. RIVERA: Objection to
10 form. And to the extent it doesn't
11 involve conversations with your
12 attorneys, you can answer.

13 THE WITNESS: Yeah, it's like
14 a chicken egg thing now. Like, I
15 don't know if we were told that
16 there -- that we would possibly be
17 part of something or we would be
18 questioned about the effects of
19 social media. I'm not sure what
20 led to me formulating an
21 understanding of what the lawsuit
22 is.

23 BY MR. KARP:

24 Q. When did you first become
25 aware of the lawsuit?

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1 A. I'm not sure of the date,
2 but I believe our superintendent mentioned
3 it in a principals' meeting, I think.

4 Q. And that would be Dr. Vauss?

5 A. Yes.

6 Q. Do you recall approximately
7 when that meeting occurred?

8 A. I have -- I couldn't begin
9 to pinpoint.

10 Q. Not even the year?

11 A. Well, it would have to be
12 this school year, but was it November,
13 December, January, I'm not sure.

14 Q. So you recall a meeting with
15 Dr. Vauss where you learned about this
16 lawsuit that occurred during the 2024-2025
17 school year?

18 MR. RIVERA: Objection to
19 form. You can answer.

20 THE WITNESS: I believe so.
21 You know, you're asking me on the
22 spot to go back and pinpoint, I
23 believe it may have been in a
24 meeting, at a principals' meeting.

25

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1 BY MR. KARP:

2 Q. And who attends principals'
3 meetings?

4 A. Principals.

5 Q. Principals from which
6 schools?

7 A. All the schools.

8 Q. So this is a periodic
9 meeting that Dr. Vauss has with the
10 principals of all schools within IPS?

11 A. Yes.

12 Q. How often do those meetings
13 occur?

14 A. Once a month, minimum.

15 Q. Are lawyers present for
16 those meetings?

17 A. No.

18 Q. Are agendas created for
19 those meetings?

20 A. Yes.

21 Q. And those are written down?

22 A. Yes.

23 Q. Do you receive those in
24 advance of each meeting?

25 A. No.

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1 Q. Do you keep copies of those
2 agendas?

3 A. I'm not sure.
4 Unintentionally, maybe. It's -- yeah.

5 Q. Do you take notes during
6 those meetings?

7 A. Sometimes, depending on what
8 we're discussing.

9 Q. And do you keep those notes?

10 A. It depends. I can't say for
11 sure.

12 Q. Do you take those notes on a
13 computer or in a notebook?

14 MR. RIVERA: Objection to
15 form.

16 THE WITNESS: I'm bad with
17 that, it would be on whatever is in
18 front of me and then, you know.

19 BY MR. KARP:

20 Q. And that could be a
21 notebook, that could be a laptop?

22 MR. RIVERA: Objection to
23 form.

24 THE WITNESS: I don't think
25 it's ever a laptop. So it would

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1 probably be the papers from the
2 agenda, like. From the materials
3 from the meeting, I may just jot
4 something down and then --

5 BY MR. KARP:

6 Q. Is someone at those meetings
7 responsible with keeping the minutes?

8 A. Not to my knowledge.

9 Q. There's no one there whose
10 responsibility it is to maintain or create
11 a record of what was discussed?

12 MR. RIVERA: Object to form.

13 THE WITNESS: Not to my
14 knowledge.

15 BY MR. KARP:

16 Q. Were you involved in the
17 decision to file this lawsuit?

18 A. No.

19 Q. I'm handing you tab five,
20 which we will mark as Exhibit 3.

21 - - - - -

22 (Union Avenue Middle School
23 Parent & Teacher Handbook
24 2023-2024 Bates
25 BW__Irvington00507982 to 508015

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1 marked Zahir Exhibit 3 for
2 identification.)

3 - - - - -

4 BY MR. KARP:

5 Q. This is the Union Avenue
6 Middle School Parent and Teacher Handbook
7 for 2023-2024.

8 Do you see that?

9 A. Yes.

10 Q. And your name is also
11 indicated on the front?

12 A. Yes.

13 Q. Do you recognize this
14 document?

15 A. I believe so, yes.

16 MR. RIVERA: You can take a
17 minute to look through the document
18 to familiarize yourself with it.

19 BY MR. KARP:

20 Q. And I'll let you know, I'm
21 not going to ask you about every page of
22 this document, only a few.

23 A. That's fine.

24 Q. Did you draft any portions
25 of this document?

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1 A. No.

2 Q. Did you approve the Union
3 Avenue Middle School parent and teacher
4 handbook before it was created?

5 MR. RIVERA: Object to form.

6 BY MR. KARP:

7 Q. Strike that.
8 Did you approve this
9 document?

10 A. Yes.

11 Q. Were you asked to review
12 this document before it was finalized?

13 A. Yes.

14 Q. And who asked you to do
15 that?

16 A. I don't recall who asked me
17 to review it. I know that the review
18 happens when the name of the principal
19 changes, if there's a difference in the
20 logo, not so much in the structure of the
21 pamphlet itself.

22 Q. Let's turn to page 11.
23 Bates ending in 992. The last section of
24 this page is titled, "Cell Phones and Other
25 Electronic Devices."

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1 Do you see that?

2 A. Yes.

3 Q. Does this set out Union
4 Avenue Middle School's policy with respect
5 to cell phone use in school?

6 A. I don't know what you mean.

7 Q. Is this Union Avenue Middle
8 School's policy on cell phones?

9 A. This is the district's
10 policy.

11 Q. And the district's policy
12 applies to Union Avenue Middle School,
13 correct?

14 A. I'm not sure how to answer
15 that question.

16 Q. The document we're looking
17 at right now is a handbook for Union Avenue
18 Middle School, correct?

19 A. Yes.

20 Q. And it incorporates the
21 district's policy on cell phones and
22 electronic devices?

23 A. Yes.

24 Q. Okay. So you're saying that
25 this policy is not unique to Union Avenue

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1 Middle School, it's the district policy?

2 A. To my knowledge, yes.

3 Q. Okay. And -- but fair to
4 say, the policy that is indicated here is
5 the policy that applies to Union Avenue
6 Middle School, correct?

7 MR. RIVERA: Object to form.
8 You can answer.

9 THE WITNESS: Say that
10 question again, sir.

11 BY MR. KARP:

12 Q. This is the policy -- this
13 policy called, "Cell Phones and Other
14 Electronic Devices," applies to Union
15 Avenue Middle School, correct?

16 A. That, yes.

17 Q. At least it did in the
18 2023-2024 school year that we're looking
19 at, right?

20 A. Yes.

21 Q. And according to this
22 policy, "Cell phones, recording devices,
23 and personal listening devices must be
24 turned off during the school day and must
25 not be visible."

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1 Do you see that?

2 A. Yes.

3 Q. "If the device is visible or
4 activated in any fashion it will be taken
5 from the student, and a parent/guardian
6 will be asked to pick up the confiscated
7 item from the main office between 8:00 a.m.
8 to 8:30 a.m. and between 3:00 p.m. and
9 4:00 p.m."

10 Do you see that?

11 A. Yes.

12 Q. And that is the policy at
13 Union Avenue Middle School, correct?

14 A. I'm not sure how to answer
15 that question.

16 Q. Does Union Avenue Middle
17 School enforce what I just read?

18 MR. RIVERA: Object to form.

19 THE WITNESS: We adhere to the
20 policy.

21 BY MR. KARP:

22 Q. Can Union Avenue Middle
23 School students use their cell phones or
24 have them visible before school starts?

25 A. Meaning outside?

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1 Q. During the school day -- or
2 strike that.

3 While a student from Union
4 Avenue Middle School is present on campus,
5 can he or she have a cell phone out before
6 classes start?

7 MR. RIVERA: Object to form.

8 THE WITNESS: Can you be more
9 specific with your question?

10 BY MR. KARP:

11 Q. If a student is on the
12 playground or otherwise outside of the
13 school, but still on school property and
14 classes have not yet started, can that
15 student have a cell phone out consistent
16 with this policy?

17 A. Has the student entered the
18 building yet?

19 Q. In this scenario, no.

20 A. If they're not in the
21 building, yes.

22 Q. Once the student has entered
23 the building, but before classes have
24 started, can that student have a cell phone
25 out?

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1 A. No.

2 Q. Can a -- excuse me, can a
3 Union Avenue student have a cell phone out
4 in between class periods when walking from
5 class to class?

6 MR. RIVERA: Object to form.

7 THE WITNESS: No, they're not
8 supposed to have their phones out
9 in passing.

10 BY MR. KARP:

11 Q. I didn't mean to cut you
12 off, I'm sorry.

13 A. They're not supposed to have
14 their phones out in passing, no.

15 Q. Are Union Avenue Middle
16 School students permitted to have their
17 cell phones out during their lunch periods?

18 A. In this building, yes.

19 Q. Are Union Avenue students
20 permitted to have their cell phones out
21 after school while they're still in the
22 building?

23 A. I don't understand the
24 question.

25 MR. RIVERA: Object to form.

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1 BY MR. KARP:

2 Q. Are Union Avenue Middle
3 School allowed to have their cell phones
4 out after classes have concluded for the
5 day while they're still in the building?

6 MR. RIVERA: Object to form.

7 THE WITNESS: I'm confused on
8 the scenario you're creating, at
9 the end of the day, class is over,
10 but they're still in the building.

11 MS. HENRY: Like between
12 dismissal and when they left the
13 property --

14 MR. RIVERA: Object to form.

15 MS. SCULLION: We really need
16 just one questioner.

17 BY MR. KARP:

18 Q. What's the last period of
19 the school?

20 A. Ninth period.

21 Q. After ninth period, but
22 before the student has left the building,
23 can a student have a cell phone out?

24 A. They're not given permission
25 to do that, no.

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1 Q. If a student has his or her
2 cell phone out at that point in time, would
3 it be confiscated?

4 A. No.

5 Q. Why not?

6 A. It depends on the nature of
7 them having it out. If the kid has his
8 cell phone out and the kid is saying, okay,
9 Mommy, I'm coming right now, I wouldn't
10 confiscate the kid's phone because the
11 mother is saying I'm down the street, I'm
12 not at the normal parking spot.

13 Q. So students can use their
14 cell phone after ninth period for certain
15 purposes?

16 A. I think the way you're
17 asking me is if they have been given
18 permission to do so as opposed to is there
19 a level of understanding in the event that
20 they do so. And I think those are
21 different.

22 Q. The policy here indicates --
23 strike that.

24 The policy written in the
25 handbook states that cell phones will be

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1 confiscated if they're visible and I'm
2 trying to understand and I'm asking you if
3 a cell phone would be confiscated in this
4 situation?

5 MR. RIVERA: Object to form.
6 Asked and answered.

7 THE WITNESS: I think that if
8 you are speaking letter to the law,
9 it would be based on the intent of
10 who wrote that policy. I don't
11 know the intent of the author of
12 that policy. But I can tell you if
13 the speed limit says 55, do you get
14 a ticket at 56 always? No, because
15 the police officer may say, where
16 are you going? Do you know you
17 were going fast and you may say
18 yeah, I'm sorry, I was in a slight
19 rush and the police officer,
20 understanding the circumstance may
21 say okay, just keep it under 55.

22 So the letter of the law and
23 the intent versus the execution
24 of the law based on the scenario,
25 the way you're asking me, I can't

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1 answer that question.

2 BY MR. KARP:

3 Q. So there are instances when
4 students can have their cell phones out at
5 school and they will not be confiscated,
6 correct?

7 MR. RIVERA: Object to form.

8 THE WITNESS: Are there
9 instances where a cell phone may be
10 seen and it's not confiscated, yes,
11 but can they do it, meaning we're
12 granting them permission, they're
13 never granted permission to do
14 that.

15 BY MR. KARP:

16 Q. Are students permitted to
17 have their cell phones out during
18 after-school activities like soccer
19 practice?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: Again, I don't
23 think the soccer coach says, okay,
24 guys, while we're practicing, you
25 have permission to take out your

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1 phone. So I don't know how to
2 answer that question based on how
3 you're asking me.

4 BY MR. KARP:

5 Q. If a student has his or her
6 cell phone out during soccer practice,
7 would that student be disciplined?

8 MR. RIVERA: Objection to
9 form.

10 THE WITNESS: Depending on the
11 nature of the use of the phone.

12 BY MR. KARP:

13 Q. So in some cases, they would
14 not be disciplined?

15 A. Again, the scenario if the
16 kid's mother is saying what time is
17 practice over and the kid pulls out the
18 phone, I don't see grounds to discipline
19 the kid because the rigidity of the rule
20 says yes or no.

21 Q. But in other instances, the
22 cell phone -- the student could be
23 disciplined?

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: Case-by-case
2 scenario, yes.

3 BY MR. KARP:

4 Q. Does Union Avenue Middle
5 School provide buses for its students to
6 get to school?

7 A. Only those that are
8 identified as a particular population.

9 Q. Would those be students with
10 special needs?

11 A. Yes.

12 MR. RIVERA: Objection to
13 form, foundation.

14 BY MR. KARP:

15 Q. Any other populations of
16 students that fall into that category?

17 A. No. That a bus is issued
18 for, not to my knowledge, no.

19 Q. Are those students permitted
20 to use -- or strike that.

21 If a student from Union
22 Avenue Middle School has his or her phone
23 out on the bus going to or from school,
24 would that student be disciplined?

25 MR. RIVERA: Objection to

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1 form. Calls for speculation.

2 THE WITNESS: I can't say, it
3 depends -- I can say that the
4 discipline would speak to the
5 nature of the usage when they are
6 outside of the school.

7 BY MR. KARP:

8 Q. I'll phrase that a little
9 differently. Does it violate Union Avenue
10 policy for a student to have a phone out
11 while taking a bus to and from school?

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: I have to read
15 it again. It would violate it
16 depending on what you constitute as
17 the start of the school day. Does
18 the school day start the moment the
19 kid is picked up from their house
20 or does the school day start the
21 moment instruction or the moment
22 they enter the building and go to
23 class? I don't know the author of
24 the policy. I don't know what they
25 define as the school day.

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1 BY MR. KARP:

2 Q. As principal of Union Avenue
3 Middle School, do you enforce this policy?

4 MR. RIVERA: Objection to
5 form.

6 THE WITNESS: Again, we adhere
7 to the policy.

8 BY MR. KARP:

9 Q. If a student ended up in
10 your office because he or she had a cell
11 phone out on a bus, what would you do?

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: Ask them what
15 were they doing with the cell
16 phone.

17 BY MR. KARP:

18 Q. And in your view, was having
19 the cell phone out a violation of the
20 policy?

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: That would
24 depend on my understanding of what
25 the definition or the intent of

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1 school day. So this is -- this is
2 left to the interpretation of
3 someone who created this.

4 BY MR. KARP:

5 Q. Have you ever had a student
6 in your office at Union Avenue Middle
7 School for a cell phone violation?

8 A. Yes.

9 MR. RIVERA: Objection to
10 form.

11 BY MR. KARP:

12 Q. And what time of day was
13 that student using his or her cell phone?

14 MR. RIVERA: Objection to
15 form.

16 THE WITNESS: I've had
17 students in my office numerous
18 times for improper use of cell
19 phone and sometimes it happened
20 during the day, sometimes it
21 happened after school, sometimes it
22 happened over the weekend.

23 BY MR. KARP:

24 Q. As principal of Union Avenue
25 Middle School applying this policy, how do

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1 you define the school day?

2 A. I'm not at liberty to give
3 my definition to either expand or contract
4 this. I can only work within the confines
5 of this based upon a case-by-case scenario.

6 Q. So there isn't a blanket
7 prohibition on cell phones at Union Avenue;
8 is that right?

9 MR. RIVERA: Objection to
10 form.

11 THE WITNESS: I don't know
12 what you mean by that.

13 BY MR. KARP:

14 Q. There are times when
15 students can have their cell phones on
16 campus and not get -- and not be
17 disciplined, correct?

18 A. Again, you're asking about
19 do we give them permission versus if it
20 occurs, do we automatically punish them.
21 Those are two different things.

22 Q. When students have their
23 cell phones out at a time when they're not
24 supposed to, according to this policy, do
25 those cell phones get confiscated?

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1 MR. RIVERA: Objection to
2 form.

3 THE WITNESS: It depends on
4 the nature of what occurs. If a
5 kid is in the classroom and a
6 teacher is providing instruction
7 and a kid is on his phone, the
8 phone is confiscated.

9 If the kid walks into the
10 classroom and the kid may have --
11 may have had his phone looking at
12 it, not on, but looked at it and
13 a teacher says put your phone
14 away, if the kid puts his phone
15 away, then we're able to get to
16 the root of this, which is we
17 don't want cell phones out during
18 school. But the black and white
19 questioning, I can't answer it
20 the way that you're asking it.
21 I'm sorry.

22 BY MR. KARP:

23 Q. No need to apologize. How
24 many -- how many cell phones are
25 confiscated from students at Union Avenue

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1 Middle School on an average day?

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: Well, there's no
5 way to accurately answer that
6 question. Like, that's not a data
7 point that's collected that we have
8 to report.

9 BY MR. KARP:

10 Q. How many cell phones were
11 confiscated from Union Avenue Middle School
12 last week?

13 A. Again, that's not a data
14 point that I would give you an accurate
15 number. By the end of the day, what's
16 tallied, we don't tally it and say add that
17 to yesterday's total.

18 Q. So that's not information
19 that you track?

20 A. No.

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: We're not
24 instructed to track that
25 information.

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1 BY MR. KARP:

2 Q. And as a result, you don't
3 track that information?

4 A. We're not instructed to
5 track it.

6 Q. So you don't track it?

7 A. We're not instructed to
8 track it.

9 MR. RIVERA: Objection to
10 form.

11 BY MR. KARP:

12 Q. What is your best
13 recollection of how many cell phones were
14 confiscated last week?

15 A. I couldn't recall how many,
16 because it's not a -- it's not a pipeline
17 where every phone finds its way to me. A
18 teacher could confiscate the cell phone,
19 call the parent, and say I have your
20 child's cell phone, can you come get it
21 after school, or I will hold it until the
22 end of the day and give it back. We don't
23 track that data.

24 Q. How many cell phones were
25 confiscated by Union Avenue Middle School

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1 students yesterday?

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: By who?

5 BY MR. KARP:

6 Q. By any Union Avenue Middle
7 School staff?

8 A. I can't speak to all the
9 staff.

10 Q. Have you confiscated
11 any cell pones --

12 A. Yesterday, I had four.

13 Q. Yesterday --

14 MS. SCULLION: Hold on, we're
15 starting to speak over each other,
16 and it's going to be a problem for
17 the court reporter, so I'm just
18 going to ask that you let him
19 finish his questions --

20 THE WITNESS: Sure.

21 MS. SCULLION: -- and you can
22 let him finish his answers, and
23 we'll have this be a little bit
24 more easier for the court reporter.
25 Thank you.

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1 BY MR. KARP:

2 Q. Yesterday you confiscated
3 four cell phones?

4 A. Four.

5 Q. And they were all returned
6 to the students that day?

7 MR. RIVERA: Objection to
8 form.

9 BY MR. KARP:

10 Q. -- or to their -- strike
11 that.

12 They were returned to the
13 students or their parents that day?

14 A. At the end of the day, yes.

15 Q. But there's no record of
16 those confiscations?

17 MR. RIVERA: Objection to
18 form.

19 THE WITNESS: Again, this is
20 not a stat we record.

21 BY MR. KARP:

22 Q. Do you record the reasons
23 for the confiscation?

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: No.

2 BY MR. KARP:

3 Q. These confiscations could
4 have occurred whether the student was
5 playing videos games or texting or on
6 social media or something else, correct?

7 MR. RIVERA: Objection to
8 form.

9 THE WITNESS: I can't speak to
10 everyone's confiscation or why.

11 BY MR. KARP:

12 Q. If I wanted to know what
13 those students were doing on those cell
14 phones -- strike that.

15 If I wanted to know what
16 those four students were doing on their
17 cell phones at the time that those cell
18 phones were confiscated, what would I do?

19 MR. RIVERA: Objection to
20 form.

21 THE WITNESS: I don't
22 understand the question.

23 BY MR. KARP:

24 Q. Is there a way for me to
25 know or find out what those students were

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1 doing on their cell phones at the time that
2 they were confiscated?

3 MR. RIVERA: Objection to
4 form.

5 THE WITNESS: You would ask
6 the person who confiscated it.

7 BY MR. KARP:

8 Q. And you were the person who
9 confiscated those phones, correct?

10 A. Yes.

11 Q. Do you know what those
12 students were doing on their cell phones at
13 the time?

14 A. Yes.

15 Q. What were they doing on
16 their cell phones?

17 A. They were on social media.

18 Q. What platforms were they on?

19 A. I'm not -- Instagram and
20 TikTok.

21 Q. And you saw them on
22 Instagram and TikTok?

23 A. I asked.

24 MR. RIVERA: Objection to
25 form.

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1 BY MR. KARP:

2 Q. Before you confiscated
3 the phone -- well, strike that.

4 You asked the students what
5 they were doing on their cell phones when
6 they were confiscated?

7 MR. RIVERA: Object to form.

8 THE WITNESS: I believe one I
9 asked. Two, as I walked over, I
10 saw. And one was because the phone
11 was ringing during instructional
12 time. I believe that was the case.

13 BY MR. KARP:

14 Q. For that last one, they were
15 receiving a call?

16 MR. RIVERA: Objection to
17 form.

18 THE WITNESS: I'm not sure if
19 it was a call or an alarm, but it
20 was going off and the individual
21 refused to turn it off, so I asked
22 the individual to give me the phone
23 and I brought it downstairs to my
24 office.

25

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1 BY MR. KARP:

2 Q. And for that one in
3 particular, do you -- your understanding is
4 that that caller alarm was related to
5 social media?

6 MR. RIVERA: Objection to
7 form.

8 THE WITNESS: No, that one was
9 disrupting the learning
10 environment.

11 BY MR. KARP:

12 Q. Once the phones were
13 confiscated, did you meet with the
14 students?

15 A. I don't understand what you
16 mean.

17 Q. Walk me through the process
18 of confiscating a phone from a student.

19 A. Give me your phone. Thank
20 you.

21 Q. And then after that, is
22 there a meeting with the student?

23 A. Depending on the nature of
24 the incident. These particular incidents,
25 there was no need for a meeting, because it

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1 was clear what was being done.

2 Q. Do you know if for these
3 four students these were their first times
4 violating the policy?

5 MR. RIVERA: Objection to
6 form.

7 THE WITNESS: I can't answer
8 that.

9 BY MR. KARP:

10 Q. Let's go back to the policy
11 for a minute. About halfway through it
12 states, "Any student who violates this
13 policy a second time will have this
14 privilege revoked, and the device will not
15 be returned until the end of the school
16 year."

17 Do you see that?

18 A. I do.

19 Q. Union Avenue School -- Union
20 Avenue Middle School doesn't track whether
21 students have violated this policy more
22 than once?

23 MR. RIVERA: Objection to
24 form.

25 THE WITNESS: Not in the

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1 extent of sight, if I see the
2 phone. The way this is written,
3 no.

4 BY MR. KARP:

5 Q. How many times per year --
6 or strike that.

7 For the 2023-2024 school
8 year, so the last school year, how many
9 cell phones were confiscated and not
10 returned until end of the school year?

11 MR. RIVERA: Objection to
12 form.

13 THE WITNESS: I can't answer
14 that. That's not a stat that we
15 store.

16 BY MR. KARP:

17 Q. Do you recall if any were
18 confiscated and held until the end of the
19 school year?

20 A. No.

21 Q. You don't recall it or they
22 weren't, there were none?

23 MR. RIVERA: Objection to
24 form.

25 THE WITNESS: Again, if the

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1 phone is confiscated, it doesn't
2 necessarily have to be confiscated
3 by myself. I will also state that
4 I don't know the author of this and
5 their intent, so.

6 BY MR. KARP:

7 Q. And you can only answer as
8 to what if you know. So my question to you
9 is, were any cell phones confiscated during
10 the 2023-2024 school year that were not
11 returned until the end of the year?

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: Again, I can't
15 answer that. I did not confiscate
16 a phone and hold one for the whole
17 year. I did not.

18 BY MR. KARP:

19 Q. If others -- if other staff
20 at Union Avenue Middle School confiscated a
21 phone and held it until the end of the
22 school year, that would not be brought to
23 your attention?

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: It may not be.

2 It doesn't have to be.

3 BY MR. KARP:

4 Q. This school year, meaning
5 the 2024-2025 school year, have any cell
6 phones been confiscated that will not be
7 returned until the end of the school year?

8 A. I'm sorry, I'm -- because
9 we're going letter to the law, in here, it
10 says, "it will be taken from the student,
11 and parent or guardian will have to pick up
12 the phone if confiscated item from the main
13 office between 8:00 a.m. to 8:30 p.m."
14 [sic]. All right. If that teacher returns
15 it to the main office, so I don't know.

16 Q. And I'm focusing on the next
17 sentence which says, "Any student who
18 violates this policy a second time will
19 have this privilege revoked, and the device
20 will not be returned until the end of the
21 school year."

22 Do you see that?

23 A. Yes.

24 Q. And that is the policy of
25 the Union Avenue Middle School, correct?

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1 A. That is the policy of the
2 district that we adhere to.

3 Q. And my question to you is
4 whether any cell phones have been
5 confiscated during this school year,
6 2024-2025, that will be returned to
7 students at the end of the school year?

8 A. Not by me.

9 Q. Do you know if by anyone?

10 A. Again, not that I know of,
11 no. But that does not mean that it has or
12 hasn't happened. There's a possibility
13 that a parent could say he was on his phone
14 again, okay, Ms. such and such, you hold
15 onto the phone and he'll get it at the end
16 of the year and that teacher may lock it in
17 their drawer.

18 Q. And that is not information
19 that the district -- that the school
20 tracks?

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: No.

24 BY MR. KARP:

25 Q. In your experience as

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1 principal of Union Avenue Middle School,
2 does confiscating a student's cell phone
3 discourage him or her from using a cell
4 phone during school?

5 MR. RIVERA: Objection to
6 form.

7 THE WITNESS: Yes.

8 BY MR. KARP:

9 Q. Let's turn to page 10 of
10 this document and the section titled,
11 "Guidance." Did you write this section of
12 the handbook?

13 A. No.

14 MR. RIVERA: Objection to
15 form. Asked and answered.

16 BY MR. KARP:

17 Q. According to the handbook,
18 "Guidance counselors help students in a
19 variety of ways. Some of the services
20 provided by the guidance counselors are,"
21 and then there's a list.

22 Do you see that?

23 A. Yes.

24 Q. The last bullet in this list
25 is "Conducting weekly guidance lessons on

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1 conflict resolution skills, social media,
2 et al."

3 Do you see that?

4 A. Yes.

5 Q. Do you have an understanding
6 of what's meant by conducting weekly
7 guidance lessons on social media?

8 MR. RIVERA: Object to form.

9 THE WITNESS: Do I understand
10 what the author of this meant?

11 BY MR. KARP:

12 Q. Yes, that's the question.

13 A. I can't speak to --

14 MR. RIVERA: Objection to
15 form.

16 THE WITNESS: I can't speak to
17 the meaning of the person who wrote
18 it.

19 BY MR. KARP:

20 Q. Do you know what, if any,
21 weekly guidance lessons Union Avenue gives
22 on social media?

23 A. Globally or are you -- I
24 don't understand the question.

25

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1 Q. This policy refers to weekly
2 guidance lessons regarding social media,
3 correct?

4 MR. RIVERA: Objection to
5 form.

6 THE WITNESS: Say that again.
7 BY MR. KARP:

8 Q. This handbook specifically
9 the section on guidance refers to
10 "Conducting weekly guidance lessons on
11 conflict resolution skills, social media,
12 et al."

13 Do you see that?

14 A. Uh-huh.

15 Q. Is it your understanding
16 that those weekly guidance lessons occur?

17 A. With who?

18 Q. Are these weekly -- do
19 guidance counselors offer weekly lessons --
20 strike that.

21 Do guidance counselors at
22 Union Avenue Middle School offer weekly
23 lessons on social media?

24 MR. RIVERA: Object to form.

25 THE WITNESS: I'm not

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1 understanding with who.

2 BY MR. KARP:

3 Q. Who was the intended
4 audience for this particular section of the
5 handbook?

6 A. I don't know --

7 MR. RIVERA: Objection to
8 form.

9 THE WITNESS: I don't know the
10 nature of the author and what they
11 wrote or intended.

12 BY MR. KARP:

13 Q. And if you read up, it says,
14 "Guidance counselors help students in a
15 variety of ways."

16 Do you see that?

17 A. Uh-huh.

18 Q. Are these lessons given to
19 students?

20 A. It says, "Some of the
21 services provided are." Are they given to
22 the students, yes.

23 Q. The first sentence of this
24 section is, "Union Avenue Middle School's
25 guidance counselors work with the students,

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1 teachers, and parents under the direction
2 of the principal."

3 Do you see that?

4 A. Uh-huh.

5 Q. And you are the principal,
6 correct?

7 A. Uh-huh.

8 Q. And do you work --

9 MS. SCULLION: I'm sorry, we
10 need to say yes and no.

11 THE WITNESS: Yes, I'm sorry,
12 yes.

13 BY MR. KARP:

14 Q. And do you work with
15 guidance counselors on their weekly lessons
16 on conflict resolution skills and social
17 media?

18 MR. RIVERA: Objection to
19 form.

20 THE WITNESS: In what way?

21 BY MR. KARP:

22 Q. In the way that's
23 contemplated by this handbook.

24 MR. RIVERA: Objection to
25 form. Lack of foundation.

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1 THE WITNESS: I'm not clear on
2 how it was contemplated by the
3 handbook.

4 BY MR. KARP:

5 Q. Do you work with guidance
6 counselors regarding any of the weekly
7 lessons that they teach?

8 MR. RIVERA: Objection to
9 form.

10 THE WITNESS: I'm not sure how
11 to answer that question.

12 BY MR. KARP:

13 Q. Tell me about the
14 responsibilities of guidance counselors at
15 Union Avenue Middle School.

16 MR. RIVERA: Objection to
17 form.

18 THE WITNESS: I'm not clear on
19 their full job description.

20 BY MR. KARP:

21 Q. Do you ever see them?

22 MR. RIVERA: Objection to
23 form.

24 THE WITNESS: As it applies to
25 my building, yes, but they have a

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1 supervisor that provides them with
2 most of their immediate
3 supervision -- well, not immediate
4 supervision, but most of their job.

5 BY MR. KARP:

6 Q. Do you hire guidance
7 counselors to work at Union Avenue Middle
8 School?

9 A. No.

10 Q. Who does?

11 A. The supervisor of guidance,
12 they appoint them to the schools.

13 Q. And you're not involved in
14 that decision at all?

15 A. I may -- I may be asked how
16 do I feel about this candidate. If there's
17 an interview, I may get a courtesy of being
18 on the interview if they're specifically
19 interviewing for me, but that has never
20 happened here.

21 Q. What are the general
22 responsibilities of guidance counselors at
23 Union Avenue Middle School?

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: I can't speak to
2 their written responsibilities.

3 BY MR. KARP:

4 Q. Can you speak to any of
5 their responsibilities?

6 MR. RIVERA: Objection to
7 form.

8 THE WITNESS: Yes.

9 BY MR. KARP:

10 Q. How do guidance
11 counselors -- well, strike that.
12 What responsibilities can
13 you speak to?

14 A. Their impact on advising
15 when it comes to scheduling. Their impact
16 on when we're having parent conferences or
17 we're doing I&RS meetings. Their impact on
18 students who are not doing well
19 academically, the guidance that they
20 provide them.

21 Q. What are I&RS meetings?

22 A. Excuse me?

23 Q. What are I&RS meetings?

24 A. Intervention and referral
25 services.

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1 Q. The handbook refers to
2 conducting weekly guidance lessons on
3 conflict resolution skills, social media,
4 et al.

5 Do you see that?

6 A. Yes.

7 Q. Are you aware of any weekly
8 guidance lessons offered by guidance
9 counselors at Union Avenue Middle School?

10 MR. RIVERA: Object to form.

11 THE WITNESS: You've asked me
12 that and my response is, to who?

13 BY MR. KARP:

14 Q. To anyone.

15 A. I am not --

16 MR. RIVERA: Object to form.

17 THE WITNESS: I am not aware
18 of a guidance counselor meeting
19 with a particular group of kids
20 every week.

21 BY MR. KARP:

22 Q. And that wasn't my question.

23 A. That's where I'm confused.

24 Q. My question is, are you
25 aware of any weekly guidance lessons that

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1 have been offered to anyone, whether it's
2 parents, teachers, or students?

3 A. My confusion is when you
4 say, "weekly," as if what I'm hearing is if
5 it's recurring with the same people.

6 Q. And with all due respect,
7 Dr. Zahir, the policy that we have in front
8 of us in the handbook for your school says
9 conducting weekly guidance lessons.

10 Do you see that?

11 A. Yes. I did not write the
12 policy. I don't understand the intent of
13 the person who wrote it. So I'm not clear
14 on the meaning behind weekly.

15 Q. So my understanding of your
16 testimony is you're not aware of any weekly
17 guidance lessons that have been offered to
18 anyone?

19 A. Yes --

20 MR. RIVERA: Object to form.

21 THE WITNESS: That is not what
22 I said, what I'm saying is I don't
23 understand you asking me about
24 weekly lessons. That's why I asked
25 to who.

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1 BY MR. KARP:

2 Q. Are you aware of any lessons
3 taught by guidance counselors at Union
4 Avenue Middle School?

5 A. Yes.

6 Q. Tell me about those lessons.

7 MR. RIVERA: Objection to
8 form.

9 THE WITNESS: The guidance
10 counselors periodically go into the
11 classrooms, speak to the kids about
12 a multitude of things from
13 self-esteem to social media to,
14 like, when we have our
15 anti-bullying months or we have --
16 let me think, there's, like, a
17 kindness initiative we do. Things
18 of that nature.

19 BY MR. KARP:

20 Q. You said periodically?

21 A. Yes.

22 Q. How often?

23 A. I can't speak to how often.

24 Q. You said self-esteem, social
25 media, and bullying are some of the topics

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1 they cover, and kindness?

2 A. Yes.

3 Q. College prep, is that
4 another topic that they may cover?

5 MR. RIVERA: Object to form.

6 THE WITNESS: That is an
7 assumption, but we're a middle
8 school. So the depth of how deep
9 they go with that, I don't know.

10 BY MR. KARP:

11 Q. To the extent that guidance
12 counselors are teaching lessons on social
13 media -- or let me rephrase that, strike
14 that.

15 To the extent that guidance
16 counselors at Union Avenue Middle School
17 are teaching students about social media,
18 are there any handouts or presentations
19 that you're aware of?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: Not that I can
23 recall. I'm not sure.

24 BY MR. KARP:

25 Q. Do you know approximately

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1 how many lessons guidance counselors at
2 Union Avenue Middle School give to students
3 on social media?

4 MR. RIVERA: Objection to
5 form.

6 THE WITNESS: I'm not -- I
7 don't understand the question.

8 BY MR. KARP:

9 Q. Do guidance counselors teach
10 five lessons on social media or do they
11 teach one lesson on social media a year?

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: I don't
15 understand -- I'm confused when
16 your -- the number is what's
17 confusing me.

18 BY MR. KARP:

19 Q. I'm sorry, I didn't mean to
20 cut you off.

21 A. No, go ahead.

22 Q. You testified that guidance
23 counselors at Union Avenue Middle School
24 teach lessons to students regarding social
25 media, correct?

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1 A. I mentioned other things
2 also, yes.

3 Q. Among a number of topics,
4 correct?

5 A. Uh-huh.

6 Q. And my question to you is,
7 in a given school year, how many lessons do
8 guidance counselors give to students at
9 Union Avenue Middle School regarding social
10 media?

11 MR. RIVERA: Objection to
12 form.

13 THE WITNESS: The same
14 students?

15 BY MR. KARP:

16 Q. Any students at Union Avenue
17 Middle School, how many lessons are they
18 teaching?

19 MR. RIVERA: Objection to
20 form.

21 THE WITNESS: I'm not sure of
22 how many.

23 BY MR. KARP:

24 Q. During the 2023-2024 school
25 year, how many lessons did guidance

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1 counselors at Union Avenue Middle School
2 teach regarding social media?

3 MR. RIVERA: Objection to
4 form.

5 THE WITNESS: I am not sure.

6 BY MR. KARP:

7 Q. What is the last lesson that
8 you can recall that a guidance counselor at
9 Union Avenue Middle School gave to
10 students?

11 A. I'm not sure --

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: -- what the last
15 lesson was.

16 BY MR. KARP:

17 Q. Okay. And you don't recall
18 when that lesson was given?

19 A. I'm not sure when that last
20 lesson was given.

21 Q. And I think I left out a
22 part of my question, I apologize.

23 What is the last lesson
24 regarding social media specifically that
25 you recall being given by guidance

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1 counselors at Union Avenue Middle School?

2 A. Say that again, sir.

3 Q. What is the last lesson
4 regarding social media that you can recall
5 being given by guidance counselors at Union
6 Avenue Middle School?

7 A. I don't understand --

8 MR. RIVERA: Objection to
9 form.

10 THE WITNESS: I don't
11 understand the question.

12 BY MR. KARP:

13 Q. You've testified that
14 guidance counselors at Union Avenue Middle
15 School have given or taught lessons to
16 students regarding social media, correct?

17 A. Yes.

18 Q. What is the last of those
19 lessons that you can recall?

20 A. I don't understand the
21 question.

22 Q. Do you recall any of those
23 lessons?

24 A. I recall having a
25 conversation about those lessons.

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1 Q. With whom?

2 A. With the guidance
3 counselors.

4 Q. Do you remember which ones?

5 A. I'm not sure if it was --
6 I'm not sure if it was Ms. Knight or
7 Ms. Vargas.

8 Q. You said Ms. Vargas, it
9 could have been --

10 A. I'm not sure if it was Ms.
11 Knight or Ms. Vargas.

12 Q. The first name was Ms.
13 Knight?

14 A. Knight.

15 Q. Do you recall when you had
16 this conversation?

17 A. I do not recall.

18 Q. Was it 2025?

19 A. I believe so. It may have
20 been fall, like, fall, early winter 2024.

21 Q. Your best recollection is
22 that it occurred this school year?

23 A. Yes. I can't give you
24 exactly when, but there was conversations
25 about pushing into the classrooms last

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1 school year about the use of social media.
2 The date, I can't recall, but this is --
3 this is such a big issue in the school that
4 it's discussed a lot and from the guidance
5 counselors' perspective, there have been
6 conversations about pushing into the
7 classes to discuss the dangers of it,
8 proper use, and so on and so forth and
9 whatever.

10 Q. And the last time you
11 discussed a lesson that guidance counselors
12 at Union Avenue Middle School would give to
13 students about social media was the fall or
14 winter of 2024?

15 MR. RIVERA: Objection to
16 form.

17 THE WITNESS: I said I can't
18 recall.

19 BY MR. KARP:

20 Q. Do you know if there have
21 ever been weekly guidance lessons on social
22 media --

23 MR. RIVERA: Objection to
24 form.

25 MR. KARP: -- at Union Avenue

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1 Middle School?

2 THE WITNESS: I can't speak to
3 it. I don't understand what they
4 mean by weekly.

5 BY MR. KARP:

6 Q. You don't think that means
7 happening every week?

8 MR. RIVERA: Objection to
9 form.

10 THE WITNESS: I understand
11 what weekly means, but to who?

12 BY MR. KARP:

13 Q. Meaning who the audience is?

14 A. Who are they having the
15 lessons with every week?

16 Q. Are you aware of any weekly
17 guidance lessons that have been given to
18 any group of people by guidance counselors
19 at Union Avenue Middle School?

20 A. I don't understand the
21 nature of the question.

22 MR. KARP: This might be --

23 MR. RIVERA: I think now is a
24 good time for a break, lunch is
25 ready.

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1 MR. KARP: Yeah, I think this
2 is a good time for lunch.

3 THE WITNESS: No problem.

4 THE VIDEOGRAPHER: The time
5 right now is 12:09 p.m. We are off
6 the record.

7 - - - - -

8 (A recess was taken at this time.)

9 - - - - -

10 THE VIDEOGRAPHER: The time
11 right now is 1:03 p.m. We are back
12 on the record.

13 BY MR. KARP:

14 Q. Dr. Zahir, welcome back.
15 How was lunch?

16 A. It was cool. Pepper and
17 turkey, I think. Whoever picked that, by
18 the way, it was a good choice.

19 Q. I agree, I had some good
20 chicken salad. Well, I hope you feel
21 nourished and ready to go?

22 A. Right.

23 Q. I'm handing you tab six
24 which we will mark as Exhibit 4.

25 - - - - -

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1 (Email dated 10/2/23 Bates
2 BW__Irvington00083334 marked
3 Zahir Exhibit 4 for
4 identification.)

5 - - - - -

6 BY MR. KARP:

7 Q. This is an email dated
8 October 2, 2023. The subject is
9 "Walk-through feedback 9/27/2023," and this
10 email is from Ray-Quell Cotton to Ryan
11 Carroll, and you are copied on this email.

12 Do you see that?

13 A. Yes.

14 Q. Okay. Are you familiar with
15 this email?

16 A. Okay. Yes.

17 Q. Was that a yes?

18 A. Yes, it looks familiar.

19 Q. Do you recall receiving this
20 email?

21 A. I'm not going to say I
22 recall, but I -- it doesn't look foreign.

23 Q. Who is Ray-Quell Cotton?

24 A. She, I believe is the
25 supervisor of health and phys. ed.

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1 Q. And who is Mr. Carroll?

2 A. He's a phys. ed teacher.

3 Q. Both individuals work at
4 Union Avenue?

5 A. No.

6 Q. Where do these teachers
7 work?

8 A. Mr. Carroll works here.

9 Q. Here being Union Avenue?

10 A. Yes.

11 Q. Where does Ms. Cotton work?

12 A. She works for the district.
13 She's a district supervisor.

14 Q. And this part is -- excuse
15 me -- strike that.

16 As part of her role as
17 district supervisor, does Ms. Cotton do
18 walk-throughs of phys. ed classes taught by
19 Union Avenue phys. ed teachers?

20 MR. RIVERA: Object to form.

21 THE WITNESS: Can you repeat
22 the question?

23 BY MR. KARP:

24 Q. Sure. Does -- in her role
25 as supervisor of health and physical

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1 education for Irvington Public Schools,
2 does Ms. Cotton observe phys. ed teachers
3 at Union Avenue Middle School?

4 A. Yes.

5 Q. And here in this email,
6 Ms. Cotton wrote to Mr. Carroll, "Good
7 afternoon Mr. Carroll, Thank you for
8 sharing your educational space with me.
9 Listed below, please find your Grows and
10 Glows to use as you continue your growth as
11 an educator."

12 Do you see that?

13 A. Yes.

14 Q. Are you familiar with grows
15 and glows?

16 A. Yes.

17 Q. What is meant by that term,
18 "grows and glows"?

19 MR. RIVERA: Object to form.

20 THE WITNESS: What does she
21 mean or what does the terminology
22 in education mean?

23 BY MR. KARP:

24 Q. What does the terminology in
25 education mean?

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1 A. Your glows are areas that
2 you were cited doing well. Your grows are
3 areas that need improvement, recommended
4 areas of improvement.

5 Q. Is it your understanding
6 that that's how Ms. Cotton was using those
7 terms here in her email?

8 MR. RIVERA: Object to form.

9 THE WITNESS: I would assume
10 that.

11 BY MR. KARP:

12 Q. Let's look at the grows
13 section for Mr. Carroll. The third bullet
14 down states, "Students were observed using
15 cell phones. Reinforce the district cell
16 phone policy to students. Cell phones
17 should be off and out of sight. Please
18 take the appropriate disciplinary action
19 against students who violate this policy."

20 Do you see that?

21 A. Uh-huh.

22 Q. Do you have an understanding
23 of why Mr. Carroll received this feedback?

24 MR. RIVERA: Object to form.

25 THE WITNESS: I don't

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1 understand the question.

2 BY MR. KARP:

3 Q. Do you know why Ms. Cotton
4 gave Mr. Carroll that feedback?

5 MR. RIVERA: Objection to
6 form. Calls for speculation.

7 MR. KARP: I'm asking if he
8 knows.

9 THE WITNESS: I don't, I can't
10 speak to why she did it, what her
11 motivation was, her thought.

12 BY MR. KARP:

13 Q. Were you present for Ms.
14 Cotton's observation of Mr. Carroll's
15 class?

16 A. I don't recall. I don't
17 believe so, but I don't recall, no.

18 Q. Ms. Cotton reported that
19 students in Mr. Carroll's class were using
20 their cell phones, correct?

21 A. That's what it says.

22 Q. And she was encouraging him
23 to enforce the cell phone policy?

24 MR. RIVERA: Object to form.

25 THE WITNESS: I can't speak

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1 for what she thought or wanted. I
2 can read what she said.

3 BY MR. KARP:

4 Q. You told me a minute ago
5 that the grows section refers to
6 recommended areas of improvement; is that
7 right?

8 A. That's the -- that is what
9 it's understood to mean.

10 Q. And what Ms. Cotton told Mr.
11 Carroll is one way he could improve would
12 be to reinforce the district's cell phone
13 policy to students, right?

14 MR. RIVERA: Object to form.

15 MR. KARP: You can answer the
16 question.

17 THE WITNESS: I thought you
18 were just restating it. I didn't
19 know if you were asking me a
20 question.

21 BY MR. KARP:

22 Q. Sorry. One of the
23 recommended areas of improvement that Ms.
24 Cotton shared with Mr. Carroll was that he
25 could reinforce the district's cell phone

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1 policy to students, correct?

2 A. What I read is that under
3 the category of grow, "Students were
4 observed using cell phones. Reinforce the
5 district cell phone policy to students." I
6 have to take it for what's there. I can't
7 speak to what she wanted or what she felt.
8 I can't speak to that.

9 Q. Ms. Cotton observed that
10 students had their cell phones out in
11 class, in Mr. Carroll's class, correct?

12 A. Mr. Carroll observed, no.
13 Ms. Ray-Quell Cotton observed.

14 Q. Sorry if I misspoke, Ms.
15 Cotton observed that students in Mr.
16 Carroll's class had their cell phones out,
17 correct?

18 A. That's what it says.

19 Q. And she encouraged Mr.
20 Carroll to reinforce the district cell
21 phone policy to students, correct?

22 MR. RIVERA: Object to form.

23 THE WITNESS: Again, her
24 encouraging him, I can't speak to
25 that. I can speak to what's

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1 written.

2 BY MR. KARP:

3 Q. Do teachers at Union Avenue
4 Middle School enforce the district cell
5 phone policy?

6 A. As I stated earlier, we
7 adhere to the district's cell phone policy
8 for the most part.

9 Q. What do you mean, "for the
10 most part"?

11 A. As principals, we have what
12 I can call procedural autonomy, and in
13 those cases, in those cases where we deem
14 necessary, we have the autonomy to invoke a
15 building-based procedure, not to ignore
16 district policy, but because of the climate
17 and culture of the state where we are here,
18 sometimes we have that latitude. So when I
19 say adhere, meaning we're not re-- we're
20 not disregarding it but there are times
21 when our procedural autonomy comes into
22 play.

23 Q. And I've asked questions
24 today about whether this policy has been
25 enforced. Do you recall those questions?

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1 A. Yes.

2 Q. And is there a difference in
3 your mind between enforce and adhere?

4 A. Yes.

5 Q. And what is that difference?

6 A. When I hear the word,
7 "enforce," I think of discipline or action
8 or punishment. When I hear, "adhere," I'm
9 acknowledging that that's the policy and
10 that policy are bumpers or guidelines. We
11 do not deviate outside, but within those
12 guidelines, there are times when you have
13 to make a decision based on a case-by-case
14 perspective. So not adhering to the policy
15 would be ignoring it totally and saying we
16 do whatever we want, phones whenever,
17 however, no, so.

18 Q. And here Ms. Cotton told Mr.
19 Carroll that students had their cell phones
20 out and that he should reinforce the
21 district's policy, which is to for students
22 to have their phones off and out of sight.

23 MR. RIVERA: Object to form.

24 Asked and answered.

25 MR. KARP: Is that right?

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1 THE WITNESS: That's what it
2 says.

3 BY MR. KARP:

4 Q. You can put this to the
5 side.

6 As to the activities that
7 Ms. Cotton observed in Mr. Carroll's class
8 that we were just discussing, do you know
9 how students were using their cell phones?

10 MR. RIVERA: Objection to
11 form. Calls for speculation.

12 THE WITNESS: No.

13 BY MR. KARP:

14 Q. I'm handing you tab seven
15 which we'll mark as Exhibit 5.

16 - - - - -

17 (Email String Bates
18 BW__Irvington00083313 marked
19 Zahir Exhibit 5 for
20 identification.)

21 - - - - -

22 BY MR. KARP:

23 Q. Let me know once you've had
24 a chance to take a look.

25 A. Okay.

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1 Q. This is an email chain from
2 October 3, 2023, the subject line is
3 regarding 10/2 walk-through feedback, and
4 the top email is from Lance Hilfman to Leon
5 Wallace. You are copied on this email.

6 Do you see that?

7 A. Yes.

8 Q. Who is Lance Hilfman?

9 A. He is a teacher.

10 Q. And is he a teacher at Union
11 Avenue Middle School?

12 A. Yes.

13 Q. What does he teach?

14 A. Special education.

15 Q. Who is Leon Wallace?

16 A. He was a past vice principal
17 here.

18 Q. Is he still employed at the
19 district?

20 A. Yes.

21 Q. Where does he work now?

22 A. He's the principal of
23 Berkeley Elementary School.

24 Q. If we look down to the
25 second email from the top it reads, "Hello,

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1 Mr. Hilfman, it was an honor to come into
2 your classroom to view your scholars and
3 instruction. The following is feedback
4 from the walk-through."

5 Do you see that?

6 A. Yes.

7 Q. In Mr. Wallace's job as vice
8 principal of Union Avenue Middle School,
9 did he observe classroom instruction for
10 various teachers?

11 A. Yes.

12 Q. And then he would evaluate
13 those teachers based on those observations?

14 MR. RIVERA: Object to form.

15 THE WITNESS: What do you mean
16 by "evaluate"? I'm unclear.

17 BY MR. KARP:

18 Q. Sure. He would give those
19 teachers or instructors feedback based on
20 --

21 A. Yes.

22 Q. -- his observations?

23 A. Yes.

24 Q. And like the other email we
25 looked at, Mr. Wallace identifies certain

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1 glows and certain grows for this particular
2 instructor.

3 Do you see that?

4 A. Yes.

5 Q. And is your understanding
6 the same here that glows would reflect
7 something that the teacher did well and
8 grows would reflect potential areas for
9 improvement?

10 A. That's the -- that's the
11 understanding of glows and grows, yes.

12 Q. The first item under grows
13 that Mr. Wallace and the only item under
14 grows that Mr. Wallace reports is, "Do not
15 hesitate to address cell phone usage during
16 your lesson. Moreover, moving forward
17 contact security or administration to
18 assist in said situation."

19 Do you see that?

20 A. I do.

21 Q. Mr. Wallace was encouraging
22 Mr. Hilfman to address cell phone usage
23 during his lessons, right?

24 MR. RIVERA: Object to form.

25 THE WITNESS: I see what he

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1 wrote. I don't quite understand
2 the need to write that.

3 BY MR. KARP:

4 Q. Were you present for this
5 observation?

6 A. No.

7 Q. Okay. Have you spoken to
8 Mr. Hilfman or Mr. Wallace about his
9 particular observation?

10 A. Not that I recall.

11 Q. Have you spoken to either of
12 the individuals about this piece of
13 feedback on not hesitating to address cell
14 phone usage?

15 A. Not that I recall. But I
16 just want to address that Mr. Wallace did
17 not provide a descriptor for why he
18 itemized that grow. And if you look at
19 this, there were four students in that
20 class and this is an autistic room. So I'm
21 not sure what due diligence was done by
22 Mr. Wallace to even determine if the kid
23 not having the phone went against his IEP.
24 So I don't -- I don't know the nature of or
25 the justification for that, because he's

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1 not citing that something happened. He's
2 just saying, do not hesitate to address.
3 And what I can add to you is that it is
4 customary that if you provide glows, you
5 sometimes have to provide a grow. But when
6 the grows come without citing an incident,
7 I can't speak to the validity of a kid in
8 that classroom being on the cell phone and
9 the nature of why. Because it's possible
10 that in that room, it could be for a
11 reading aid or learning aid. Maybe the kid
12 is not comfortable looking at the board
13 itself. There's a lot with this one here,
14 so.

15 Q. Is that something that
16 Mr. Wallace would be familiar with as vice
17 principal of the school?

18 MR. RIVERA: Object to form.

19 THE WITNESS: I cannot speak
20 to what he would be familiar with
21 or not.

22 BY MR. KARP:

23 Q. Mr. Wallace would not be
24 familiar with an appropriate or
25 inappropriate use of a cell phone in a

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1 particular classroom?

2 MR. RIVERA: Object to form.

3 MR. KARP: You can answer.

4 THE WITNESS: I cannot speak
5 to what he will or will not be
6 familiar with.

7 BY MR. KARP:

8 Q. Did the vice principals --
9 how many vice principals are there at Union
10 Avenue Middle School?

11 A. Currently?

12 Q. In 2023, how many vice
13 principals were there at Union Avenue
14 Middle School?

15 A. At some part during the
16 year, there were two, at other parts, there
17 were three.

18 Q. At all times, are vice
19 principals of Union Avenue Middle School
20 expected to know what an appropriate or
21 inappropriate use of a cell phone is by a
22 student?

23 MR. RIVERA: Object to form.

24 THE WITNESS: I don't know how
25 to answer that question.

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1 BY MR. KARP:

2 Q. As vice principal of --
3 well, strike that.

4 You are -- you were the
5 principal for -- at the time that this
6 email was written, correct?

7 A. Yes.

8 Q. Okay. And Mr. Wallace
9 reported to you as vice principal, correct?

10 MR. RIVERA: Object to form.

11 THE WITNESS: Yes.

12 BY MR. KARP:

13 Q. Okay. Did you expect, in
14 your role as principal, did you expect
15 Mr. Wallace to know how to distinguish
16 between appropriate and inappropriate uses
17 of cell phones in class?

18 A. At the time of this email, I
19 had not had any opportunity to formulate an
20 expectation, because this is two and a
21 half, three weeks into the school year, we
22 have not completed our normalization or our
23 calibration of school norms. So for me to
24 expect something from someone I'm not used
25 to working with, that's not a fair

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1 statement.

2 Q. Sitting here today, May 20,
3 2025, as principal of Union Avenue Middle
4 School, do you expect your vice principals
5 to know the difference between appropriate
6 and inappropriate cell phone usage at Union
7 Avenue Middle School?

8 A. At this point in time, yes.

9 Q. And that is not an
10 expectation you had for your vice principal
11 on October 3, 2023?

12 MR. RIVERA: Object to form.

13 THE WITNESS: Again, I did not
14 not have that expectation or I
15 didn't expect him to or not. For
16 me, I did not formulate what my
17 expectation of him was, because I
18 didn't really know him.

19 BY MR. KARP:

20 Q. Do you have any reason to
21 think that Mr. Wallace was telling Mr.
22 Hilfman to -- not to hesitate to address
23 cell phone usage during his lesson while
24 students were using their cell phones
25 consistent with IEPs?

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1 MR. RIVERA: I'll object to
2 the form.

3 MS. SCULLION: Can you restate
4 that?

5 THE WITNESS: Yeah, can you
6 restate the question?

7 MR. KARP: Who is defending
8 this deposition? Just one counsel.

9 MR. RIVERA: I got my
10 objection on the record.

11 MS. SCULLION: I wasn't
12 actually able to hear the question.
13 That's why I was asking.

14 BY MR. KARP:

15 Q. Okay. I can reask the
16 question. Do you have any reason to
17 believe that Mr. Wallace was offering this
18 piece of feedback when a student was using
19 his or her cell phone appropriately?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: I don't have a
23 reason in this email to assume that
24 this was related to a cited
25 incident, because it's not stated.

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1 BY MR. KARP:

2 Q. And what do you mean, "a
3 cited incident"?

4 A. If you refer back to the
5 other one with Ms. Cotton, she clearly
6 stated students were observed, so these
7 have to be evidence based. This statement
8 is not evidence based. It comes -- for me,
9 it reads as advice, but it does not say
10 that it's based upon something that was
11 observed. And my knowledge of that
12 classroom and based on the entire email,
13 there were four students in that room. How
14 do we speak to the educational capabilities
15 of them if they could comprehend, if they
16 could read. Some students in that room are
17 nonverbal and not literate. So we don't
18 know who was there.

19 Q. This email was forwarded to
20 you later in the day on October 3, 2023?

21 A. Uh-huh.

22 MR. RIVERA: Objection to
23 form.

24 BY MR. KARP:

25 Q. Do you recall responding to

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1 this email?

2 A. Do I recall responding to
3 it, I don't.

4 Q. Do you recall following up
5 and asking about this comment on whether or
6 not Mr. Hilfman was addressing cell phone
7 usage during his lesson?

8 A. I do not recall responding
9 to it. I see where he says, "Thank you for
10 the glows and suggestions," but I don't see
11 where Mr. Hilfman is saying, I'm glad you
12 caught that, or I didn't see that, or which
13 student were you talking about? And as I
14 stated previously, it is common practice
15 that when you provide glows, you have to
16 provide a grow.

17 Q. And you believe that
18 Mr. Wallace provided this grow simply
19 because he needed to provide a grow along
20 with some glows?

21 A. That's not what I said.

22 MR. RIVERA: Objection to
23 form.

24 THE WITNESS: I didn't
25 say that -- I didn't say what I

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1 believed. I'm telling you that I
2 can't attribute this to anything
3 without any cited evidence of what
4 occurred. I don't -- I can't speak
5 to why Mr. Wallace wrote this that
6 way.

7 BY MR. KARP:

8 Q. We can put this to the side.
9 I'm handing you tab eight, which we will
10 mark as Exhibit 6.

11 - - - - -
12 (Email dated 9/22/23
13 BW__Irvington00079688 marked
14 Zahir Exhibit 6 for
15 identification.)

16 - - - - -

17 BY MR. KARP:

18 Q. Let me know once you've had
19 a chance to take a look.

20 A. I see it.

21 Q. This is an email dated
22 September 22, 2023. The subject line is
23 "Using the cell phone during class." This
24 is from Rufina Garcia to you.

25 Do you see that?

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1 MR. RIVERA: I'm sorry, your
2 responses need to be verbal.

3 THE WITNESS: Yes, yes.

4 BY MR. KARP:

5 Q. Who is Rufina Garcia?

6 A. She's a teacher here at
7 Union Avenue.

8 Q. She's a Spanish teacher?

9 A. Yes.

10 Q. Her signature block says,
11 "UMS," does that refer to Union Avenue or
12 University Middle School?

13 A. That's -- that would -- the
14 district would assume that that's
15 University Middle School, but under it, she
16 puts Union Avenue, so I don't know.

17 Q. And Ms. Garcia wrote to you,
18 "The following students were using their
19 cell phones during class, talkative,
20 disrespectful, talking back and refusing to
21 change seats. I will contact the parents
22 today by the end of the day."

23 Do you see that?

24 A. I do.

25 Q. Do you recall this incident?

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1 A. I do not.

2 Q. Do you know if these
3 students had their cell phones confiscated?

4 A. I do not know which students
5 she's speaking of.

6 Q. Okay. Do you recall
7 following up with Ms. Garcia about -- to
8 identify these students?

9 MR. RIVERA: Object to form.

10 THE WITNESS: I don't recall.

11 My natural reaction is to follow
12 up. I would walk down to the
13 classroom or I would speak to her
14 the next day, depending on, you
15 know, in this particular case, this
16 was sent at 2:59, the day is over
17 with, so there's no students who
18 you need to address at that moment.

19 BY MR. KARP:

20 Q. Sitting here today, do you
21 recall how the students that Ms. Garcia has
22 emailed you about were using their cell
23 phones?

24 MR. RIVERA: Object to form.

25 THE WITNESS: I do not recall.

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1 I can only go by what she has in
2 this email but again, she did not
3 list who the students were.

4 BY MR. KARP:

5 Q. I asked you a couple of
6 minutes ago if you know whether these
7 students had their cell phones confiscated,
8 do you recall?

9 A. I do not recall.

10 Q. No, I'm sorry, do you recall
11 the question?

12 A. Do I recall you asking the
13 question, yes.

14 Q. You did not personally
15 confiscate these students' cell phones,
16 correct?

17 A. I do not recall.

18 Q. And, to your knowledge --
19 and you do not recall if Ms. Garcia
20 confiscated these cell phones?

21 MR. RIVERA: Object to form.

22 THE WITNESS: I do not recall
23 and, like, once again, based on the
24 time that this was sent, the school
25 day is over. I don't recall if she

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1 did or didn't. I'm not sure.

2 BY MR. KARP:

3 Q. Do you know if you responded
4 to this email?

5 A. I don't recall.

6 Q. Do you know if you told
7 Ms. Garcia that she should confiscate their
8 cell phones?

9 MR. RIVERA: Object to form.

10 THE WITNESS: I don't recall
11 if I told her to confiscate their
12 cell phones. I don't recall if I
13 told her to do that.

14 BY MR. KARP:

15 Q. Do you recall asking
16 Ms. Garcia for more information about how
17 the students were using their cell phones?

18 A. I don't recall anything
19 about this particular matter.

20 Q. You can put this to the
21 side. I'm handing you tab nine which we'll
22 mark as Exhibit 7.

23 - - - - -

24 (Email String Bates

25 BW__Irvington00086585 to 00086587

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1 marked Zahir Exhibit 7 for
2 identification.)

3 - - - - -

4 THE WITNESS: Okay.

5 BY MR. KARP:

6 Q. This is an email chain dated
7 May 10, 2023, the subject line is regarding
8 cell phone use during instructional hours.
9 The top email is from Teesha Davis to Mia
10 Appling and you were copied.

11 Do you see that?

12 A. Yes.

13 Q. Who is Teesha Davis?

14 A. Supervisor of ELA for the
15 elementary grades.

16 Q. And ELA is English language
17 arts?

18 A. Yes.

19 Q. Who is Mia Appling?

20 A. She was a first grade
21 teacher at Mount Vernon.

22 Q. At the time of this email --
23 or strike that.

24 At the time of these emails,
25 you were principal of Mount Vernon?

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1 A. Yes.

2 Q. Is Ms. Appling still a first
3 grade teacher at Mount Vernon?

4 A. I believe so.

5 Q. Let's turn to the second
6 page of this email ending in 586.
7 Ms. Davis wrote to Ms. Appling, "Good
8 afternoon Ms. Appling, On Wednesday, at
9 approximately 11:05 a.m., I witnessed you
10 in the doorway of your classroom having a
11 conversation on your cell phone using an
12 earbud."

13 Do you see that?

14 A. Yes.

15 Q. Is it appropriate for
16 teachers to be on their cell phones in
17 front of students?

18 MR. RIVERA: Object to form.

19 THE WITNESS: No, it is not.

20 BY MR. KARP:

21 Q. Was Ms. Appling in violation
22 of school policy by taking a call in the
23 doorway of her classroom?

24 MR. RIVERA: Object to form.

25 THE WITNESS: I don't know how

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1 to answer that question.

2 BY MR. KARP:

3 Q. Does Irvington Public
4 Schools have a policy stating that teachers
5 cannot be on their cell phones during the
6 school day?

7 A. I believe there is a policy,
8 I'm not fully aware of all of the verbiage.

9 Q. Ms. Davis wrote, "When I
10 walked past acknowledged me by stating that
11 you had received my email. After you
12 acknowledged me, you continued your
13 conversation. While you were on the phone
14 in the doorway, students were seated in the
15 classroom at their desks."

16 Do you see that?

17 A. Yes.

18 Q. Okay. Was it appropriate
19 for Ms. Appling to be on her phone while
20 her students were seated at their desks?

21 MR. RIVERA: Object to form.

22 THE WITNESS: I don't
23 understand the question.

24 BY MR. KARP:

25 Q. Was it consistent with

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1 district policy for Ms. Appling to take a
2 phone call in front of her students while
3 they were seated at their desks?

4 MR. RIVERA: Objection to
5 form.

6 THE WITNESS: I don't have the
7 district policy committed to
8 memory. I don't have it committed
9 to memory to know exactly what it
10 states.

11 BY MR. KARP:

12 Q. If you were to walk by a
13 teacher at Union Avenue Middle School on
14 his or her cell phone today while that
15 teacher's students were seated and ready to
16 go, would you engage with that teacher or
17 tell that teacher to hang up the call?

18 MR. RIVERA: Objection to
19 form.

20 THE WITNESS: My immediate
21 question would not be hang up the
22 phone.

23 BY MR. KARP:

24 Q. What would your immediate
25 question be?

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1 A. I would want to know why are
2 they on the phone.

3 Q. Ms. Davis wrote to Ms.
4 Applling, "Refrain from using your cell
5 phone during instructional hours when
6 students are present."

7 A. Uh-huh.

8 Q. "This behavior is not only
9 unprofessional, it violates district
10 policies."

11 Do you see that?

12 A. I do.

13 Q. And is it your understanding
14 that this conduct violated district
15 policies?

16 MR. RIVERA: Object to form.

17 THE WITNESS: It is my
18 assumption that it violates the
19 district policy, but, again, I do
20 not know the verbiage of that
21 district policy.

22 BY MR. KARP:

23 Q. Sitting here today, as
24 principal of Union Avenue Middle School,
25 what is your understanding of the policy on

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1 teacher use of cell phones during the
2 school day?

3 A. Policy removed, I think it's
4 inappropriate for a teacher to be
5 conducting a phone call during
6 instructional time. What the policy says,
7 I can't speak to verbatim, but policy or no
8 policy, I think it's inappropriate for a
9 teacher to be conducting a phone
10 conversation during instructional time.

11 However, as a parent, and a
12 former teacher, in the event that there was
13 an emergency phone call received, I may
14 need to respond, then hang up, find
15 coverage, and then pursue the matter. So
16 for me, I can't speak to, you know, thumbs
17 up, thumbs down on right or wrong, because
18 it would have to be my first inclination is
19 why are you on the phone.

20 Q. And my question was about
21 your understanding of the district's
22 policies. So does the district have a
23 policy on whether teachers can use their
24 cell phones during the school day?

25 MR. RIVERA: Objection to

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1 form. Asked and answered.

2 THE WITNESS: I believe I
3 answered the question when you
4 asked. I believe there is a
5 policy, I do not know verbatim what
6 it is.

7 BY MR. KARP:

8 Q. And is that policy in the
9 Union Avenue Middle School handbook?

10 A. For the students? I'm not
11 sure if it's in the handbook for the
12 students.

13 Q. I'm asking about teachers.

14 A. That the handbook -- which
15 handbook, the teacher handbook?

16 Q. The teacher handbook that we
17 were just looking at.

18 A. I don't -- I can't say
19 verbatim if it's in there and the wording
20 that's in there.

21 Q. What do you know about the
22 policy, if not the exact wording?

23 MR. RIVERA: Objection to
24 form.

25 THE WITNESS: I believe that

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1 you are not to be on your phone
2 during instructional time.

3 BY MR. KARP:

4 Q. Does being on -- strike
5 that.

6 If a teacher is on her phone
7 in front of students who are supposed to
8 have their phones concealed, is that
9 setting a good example for students?

10 MR. RIVERA: Objection to
11 form.

12 THE WITNESS: I can't speak to
13 examples and if the kids are
14 influenced by that or not. In this
15 particular situation, these are
16 first graders. I doubt that they
17 have phones.

18 BY MR. KARP:

19 Q. You doubt that first
20 graders --

21 A. Have phones.

22 Q. -- have phones?

23 Are you aware that some of
24 the allegations in this case involve
25 elementary school students and their use of

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1 cell phones?

2 A. Uh-huh.

3 MR. RIVERA: Objection to
4 form.

5 THE WITNESS: But, globally,
6 if in my experience, there may have
7 been a small minority of students
8 in elementary with phones, but it
9 wasn't all of the students. And
10 we're talking about six-year-olds
11 in this particular case, so.

12 BY MR. KARP:

13 Q. And this would not have --
14 this would not make an impression on
15 six-year-olds?

16 MR. RIVERA: Objection to
17 form.

18 THE WITNESS: I can't say
19 whether it will or it wouldn't.

20 BY MR. KARP:

21 Q. You can you put this to the
22 side. I'm handing you tab ten which we'll
23 mark as Exhibit 7 -- Exhibit 8, apologies.

24 - - - - -

25 (Email String Bates

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1 BW__Irvington00079618 to 00079621
2 marked Zahir Exhibit 8 for
3 identification.)

4 - - - - -

5 BY MR. KARP:

6 Q. Are you ready?

7 A. Yes.

8 Q. This is an email chain from
9 July through September of 2023.

10 Do you see that?

11 A. Yes.

12 Q. And, excuse me, the subject
13 line of this email is regarding Yondr and
14 Union Avenue Middle School.

15 Do you see that?

16 A. Yes.

17 Q. Let's turn to the second
18 page of this email chain ending in Bates
19 619. And let's look down toward the bottom
20 of the page at an email from July 24th of
21 2023.

22 Do you see that?

23 A. Yes.

24 Q. This email is addressed to
25 you, right?

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1 A. Yes.

2 Q. And Ms. Panayotov or
3 Panayotov, says, "Thank you for reaching
4 out to Yondr."

5 Do you see that?

6 A. Yes.

7 Q. Do you recall reaching out
8 to Yondr?

9 A. Yes.

10 Q. What is Yondr?

11 A. Yondr is a company that
12 makes sealable pouches for cell phones.

13 Q. At the time that you sent
14 this email and reached out -- or strike
15 that.

16 At the time that you reached
17 out to Yondr, were you principal of Union
18 Avenue Middle School?

19 A. Yes, I just began.

20 Q. Why did you reach out
21 to Yondr?

22 A. My intention was to
23 incorporate some strategies that I was
24 familiar with from other schools.

25 Q. And what other schools are

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1 you referring to?

2 A. Cicely Tyson.

3 Q. They used Yondr pouches?

4 A. Yes.

5 Q. And tell me what your
6 understanding is of how -- or strike that.

7 When you were at Cicely
8 Tyson, you were the school disciplinarian;
9 is that right?

10 A. Yes, yes.

11 Q. And did you use Yondr
12 pouches in your day to day -- excuse me,
13 day-to-day and job?

14 MR. RIVERA: Objection to
15 form.

16 THE WITNESS: Yes.

17 BY MR. KARP:

18 Q. How so?

19 A. I don't understand the
20 question.

21 Q. Students at the school were
22 using Yondr pouches?

23 A. Yes.

24 MR. RIVERA: Object to form.

25

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1 BY MR. KARP:

2 Q. And that was as a means of
3 storing their cell phones during the school
4 day?

5 A. No.

6 Q. How were students at Cicely
7 Tyson using Yondr pouches?

8 A. They were using Yondr
9 pouches to prevent students from using
10 their phones during class instruction.

11 Q. And when did students at
12 Cicely Tyson place their phones into Yondr
13 pouches?

14 A. Upon --

15 MR. RIVERA: Objection to
16 form.

17 THE WITNESS: Upon entry.

18 BY MR. KARP:

19 Q. At the beginning of the
20 school day? And when --

21 MR. RIVERA: Verbal responses,
22 I'm sorry.

23 THE WITNESS: Yes.

24 BY MR. KARP:

25 Q. And when would students

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1 regain access to their cell phones?

2 A. At the end of the day.

3 Q. And remind me when you were
4 the school disciplinarian at Cicely Tyson.

5 A. October 2015 until
6 June 2021.

7 Q. And in your experience at
8 Cicely Tyson, were Yondr pouches an
9 effective way to keep students off their
10 cell phones during the school day?

11 MR. RIVERA: Object to form.

12 THE WITNESS: I don't
13 understand the question.

14 BY MR. KARP:

15 Q. Did Cicely Tyson's use of
16 Yondr pouches discourage students from
17 using their cell phones during the school
18 day?

19 MR. RIVERA: Object to form.

20 THE WITNESS: That was the
21 goal.

22 BY MR. KARP:

23 Q. And when you reached out to
24 Yondr as the principal of Union Avenue
25 Middle School, were you contemplating using

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1 Yondr pouches at the Union Avenue Middle
2 School?

3 A. In addition to other
4 options, yes.

5 Q. Let's go to the first page
6 of this email chain which ends -- is Bates
7 ending in 618. Here you're having an
8 exchange with Ruqayyah Rashad?

9 A. Yes.

10 Q. Who was Ruqayyah Rashad?

11 A. I'm assuming an employee
12 from Yondr.

13 Q. And do you know if it's
14 Ms. or Mr. Rashad?

15 A. I believe it is Ms. and the
16 name is Ruqayyah.

17 Q. And on August 23, 2023, at
18 9:00 a.m., Ms. Rashad writes to you, "I
19 hope this email finds you well. I just
20 want to do follow up and see if you were
21 still interested in learning more about
22 Yondr and how we can work to support in
23 creating a cell phone free experience."

24 Do you see that?

25 A. Yes.

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1 Q. You responded to that email
2 later in the day saying, "I am interested,
3 however I have to make sure I get approval
4 from my district before I commit to any
5 meeting or trainings. I don't want to
6 spend any time and it be for naught."

7 Do you see that?

8 A. Yes.

9 Q. So at least at this point in
10 time on August 23, 2023, you were
11 interested in learning more about Yondr
12 pouches?

13 MR. RIVERA: Object to form.

14 THE WITNESS: No.

15 BY MR. KARP:

16 Q. You were not interested in
17 learning more?

18 A. Learning more about Yondr
19 pouches, no.

20 Q. You wrote to Ms. Rashad that
21 you were interested, what did you mean by
22 that?

23 A. In possibly purchasing them.

24 Q. So at this point in time,
25 August 23, 2023, you were interested in

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1 purchasing Yondr pouches for Union Avenue
2 Middle School?

3 A. Yes, as a possibility, there
4 were other options also.

5 Q. Ms. Rashad follows up with
6 you roughly a month later, she says, "I
7 hope this email finds you well. I just
8 wanted to follow up from our last
9 communication."

10 Do you see that?

11 A. Yes.

12 Q. And then Ms. Rashad asks if
13 you were ever able to follow up with your
14 district.

15 Do you see that?

16 A. Yes.

17 Q. You wrote, "At this time my
18 district is not in favor of collecting
19 phones. I will reach out if and when it
20 changes."

21 Do you see that?

22 A. Yes.

23 Q. So in September of 2023, you
24 told Ms. Rashad that the district was not
25 interested in purchasing Yondr pouches,

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1 correct?

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: Yes.

5 BY MR. KARP:

6 Q. Why wasn't the district in
7 favor of collecting phones?

8 MR. RIVERA: Object to form.

9 THE WITNESS: It's not that
10 the district --

11 MR. KARP: Go ahead.

12 THE WITNESS: It's not the
13 district wasn't in favor, that was
14 my message to her as a salesperson.
15 My instructions from a member of
16 the cabinet was what investigation
17 have you done to determine that
18 cell phones will be -- are a major
19 issue at your school. Before you
20 invoke taking them, have you done
21 any, any investigation to see if
22 this is something that we need to
23 spend money on. So what I told her
24 was, they're not interested at this
25 time and then I had to now do what

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1 we spoke about earlier, which is
2 calibrating the building, finding
3 out how big of an issue this is,
4 and then what other ways can we
5 effectively address the use of cell
6 phones in the building.

7 BY MR. KARP:

8 Q. So as of September 27, 2023,
9 you had not investigated or determined
10 whether cell phone use at Union Avenue
11 Middle School was a sufficient or large
12 enough problem such that it will require
13 the purchase of Yondr pouches?

14 MR. RIVERA: Objection to
15 form.

16 THE WITNESS: I can't speak --
17 I can't answer the question that
18 way. I'm not clear on how to
19 answer it the way you're asking me.

20 BY MR. KARP:

21 Q. Can you explain to me again
22 what your cabinet -- what this cabinet
23 member -- or, actually, strike that.

24 You referred to a
25 conversation that you had with a cabinet

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1 member about Yondr pouches, correct?

2 A. Yes.

3 Q. Who was that cabinet member?

4 A. Mr. Evans.

5 Q. And who is Mr. Evans?

6 A. He's currently the assistant
7 superintendent.

8 Q. Was he in that role at the
9 time that you had this conversation?

10 A. No, he was the assistant to
11 the assistant superintendent.

12 Q. And when -- and you
13 approached Mr. Evans about the possibility
14 of purchasing Yondr pouches?

15 A. I approached Dr. Vauss
16 first. She directed me to have the
17 conversation with Mr. Evans. She was not
18 opposed, but she said talk to Mr. Evans,
19 see what he thinks about it. And when
20 speaking with Mr. Evans, it was not, no, we
21 don't want to do it, it was, well, let's
22 look at what comes with a cultural change
23 at the school and how will the community
24 receive it. What are some issues that may
25 come with engaging in taking cell phones

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1 when this has never happened before. So
2 that's when I was told to do some more
3 investigation.

4 And if you really look at
5 the timeline, this first conversation
6 started in July. There were no students in
7 the school until the second week of
8 September, so there's not enough time for
9 me to gauge whether this is something that
10 we need versus is there another way.

11 Q. So at this point in time,
12 when you were -- September 27, 2023, when
13 you responded to Ms. Rashad, when you said
14 the district was not in favor of collecting
15 phones, what you meant was at that point in
16 time, you had not determined whether it was
17 necessary to collect phones using Yondr
18 pouches?

19 MR. RIVERA: Object to form.

20 THE WITNESS: Can you say that
21 again?

22 BY MR. KARP:

23 Q. At this time that you sent
24 this email to Ms. Rashad on September 27,
25 2023, what you meant by my district is not

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1 in favor of collecting phones, is that you
2 had not yet determined whether it was
3 necessary to purchase Yondr pouches to
4 collect cell phones?

5 MR. RIVERA: Objection to
6 form.

7 THE WITNESS: I'm not sure how
8 to answer the question.

9 BY MR. KARP:

10 Q. I think we can probably move
11 on from that. And then Ms. Rashad wrote
12 back, "Good morning, thank you for the
13 update. Please feel free to reach out at
14 any time if you are in need of any
15 assistance in the future."

16 Do you see that?

17 A. Yes.

18 Q. And have you ever gotten
19 back in touch with Ms. Rashad?

20 A. I didn't need to.

21 Q. Have you ever gotten back in
22 touch with anyone from Yondr?

23 A. Had no need to.

24 Q. You can put this to the
25 side.

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1 Does Union Avenue Middle
2 School use Yondr pouches?

3 A. No.

4 Q. To your knowledge, does any
5 school at IPS use Yondr pouches?

6 A. No.

7 Q. Does Union Avenue Middle
8 School use any locker or bag for students
9 to store their cell phones?

10 MR. RIVERA: Objection to
11 form.

12 THE WITNESS: No.

13 BY MR. KARP:

14 Q. Do you know if any school --
15 or strike that.

16 To your knowledge, does any
17 school at IPS require their students to
18 store their cell phones in lockers or some
19 other sealable bag?

20 A. I'm not sure --

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: I'm not sure
24 with other schools.

25

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1 BY MR. KARP:

2 Q. At the end of the day, whose
3 decision -- or strike that.

4 Who has the authority -- who
5 at IPS has the authority to purchase Yondr
6 pouches for schools in the district?

7 MR. RIVERA: Objection to
8 form. Foundation.

9 THE WITNESS: I don't
10 understand the question.

11 BY MR. KARP:

12 Q. Did you need approval --
13 strike that.

14 As principal of Union Avenue
15 Middle School, did you need approval from
16 the superintendent before you could
17 purchase Yondr pouches?

18 MR. RIVERA: Objection to
19 form.

20 THE WITNESS: Yes, you need
21 approval for all purchases.

22 BY MR. KARP:

23 Q. Approval from the
24 superintendent?

25 MR. RIVERA: Objection to

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1 form.

2 THE WITNESS: Ultimately, yes.

3 BY MR. KARP:

4 Q. I'm handing you tab 11 which
5 we will mark as Exhibit 9.

6 - - - - -

7 (2023-2024 School
8 Performance Report marked Zahir
9 Exhibit 9 for identification.)

10 - - - - -

11 BY MR. KARP:

12 Q. Dr. Zahir, are you familiar
13 with this document?

14 A. I'm familiar with the school
15 report, school performance report, yes.

16 Q. This is a School Performance
17 Report from the New Jersey Department of
18 Education, correct?

19 A. Yes.

20 Q. And this corresponds to the
21 2023-2024 school year?

22 A. I think as of today, I need
23 glasses. Good job. Just made me feel
24 older.

25 Q. Not my intention, sorry.

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1 A. Sure. 2023-2024 reports.

2 Q. Thank you.

3 A. Oh, thank you, guys.

4 Q. Is this information publicly
5 available?

6 A. Yes.

7 Q. If I went onto the website
8 for the New Jersey Department of Education,
9 I could pull performance reports for
10 various schools across the state, correct?

11 A. I believe so --

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: I believe so.

15 BY MR. KARP:

16 Q. Do you have any reason to
17 doubt the accuracy or the correctness of
18 any data that is reported in the
19 performance reports of the New Jersey
20 Department of Education?

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: I don't know how
24 to answer that question.

25

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1 BY MR. KARP:

2 Q. I'm handing you tab 11A.

3 MR. RIVERA: Exhibit 10.

4 MR. KARP: This will be
5 Exhibit 10.

6 - - - - -

7 (School Performance Report
8 Enrollment data marked Zahir
9 Exhibit 10 for identification.)

10 - - - - -

11 BY MR. KARP:

12 Q. Do you recognize this
13 document?

14 A. Yes.

15 Q. This is -- this is
16 enrollment data from the New Jersey
17 Department of Education included in the
18 performance report for Union Avenue Middle
19 School for the 2023-2024 school year,
20 correct?

21 A. Yes.

22 Q. Let's turn to the third page
23 of this document, which looks like this.
24 And this table is called, "Enrollment
25 Trends by Student Group."

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1 Do you see that?

2 A. Yes.

3 Q. Do you have any reason to
4 doubt the accuracy or correctness of the
5 data that's reported in this table?

6 MR. RIVERA: Objection to
7 form.

8 THE WITNESS: I don't know how
9 to answer that question.

10 BY MR. KARP:

11 Q. Do you believe that the data
12 reported by the New Jersey Department of
13 Education as to enrollment trends by
14 student group for Union Avenue Middle
15 School is inaccurate?

16 MR. RIVERA: Objection to
17 form.

18 THE WITNESS: It's presented.
19 I would have to cross-reference it
20 with what we have here and what we
21 submitted. You know, not that I'm
22 saying it's false or true, but I
23 can't speak to --

24 BY MR. KARP:

25 Q. In your role as principal of

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1 Union Avenue Middle School, do you submit
2 data to -- do you submit enrollment data to
3 the New Jersey Department of Education?

4 A. It's -- it's -- they receive
5 it, as far as if it's from a report or not,
6 I'm not clear on how to answer the
7 question, but they do receive our
8 enrollment data, it's daily.

9 Q. The school submits
10 enrollment data to the state?

11 MR. RIVERA: Objection to
12 form.

13 THE WITNESS: Yes.

14 BY MR. KARP:

15 Q. In your role as principal of
16 Union Avenue Middle School, do you ever
17 look at or review the school performance
18 reports that are put out by the state of
19 New Jersey?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: Yes.

23 BY MR. KARP:

24 Q. Have you seen this
25 particular document before?

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1 A. Yes.

2 Q. And do you have any reason
3 to doubt that the data that's contained
4 here is correct?

5 A. I don't know how to answer
6 that -- that question.

7 Q. Do you have any basis to say
8 that the information contained in this
9 table is incorrect?

10 MR. RIVERA: Objection to
11 form.

12 THE WITNESS: I don't know how
13 to answer that question.

14 BY MR. KARP:

15 Q. Let's look at the data for
16 2023-2024. This was your first year as
17 principal, correct?

18 A. Yes.

19 Q. Okay. It indicates -- the
20 School Performance Report for this school
21 year indicates that 81.1 percent of
22 students at Union Avenue Middle School are
23 economically disadvantaged; is that right?

24 A. What page are you on?

25 MR. RIVERA: Objection to

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1 form.

2 BY MR. KARP:

3 Q. We're on --

4 A. Page 1?

5 Q. This is the third page. It
6 says one of one on the bottom right-hand
7 corner?

8 A. Okay. What was your
9 question again, I'm sorry?

10 Q. The state of New Jersey
11 reported that for the 2023-2024 school
12 year, 81.1 percent of students at Union
13 Avenue Middle School were economically
14 disadvantaged. Do you see that?

15 A. Yes.

16 Q. Is that correct?

17 MR. RIVERA: Objection to
18 form.

19 THE WITNESS: I see what they
20 put, I can assume so.

21 BY MR. KARP:

22 Q. Do you have any reason to
23 doubt the accuracy of that number?

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: I don't know how
2 to answer the question.

3 BY MR. KARP:

4 Q. Is this School Performance
5 Report based on information that Union
6 Avenue Middle School submitted to --

7 A. It should be.

8 Q. -- New Jersey?

9 A. It should be, yes.

10 MS. SCULLION: Reminder, just
11 please wait for a question --

12 THE WITNESS: Okay. Sorry.

13 MS. SCULLION: -- and answer.

14 THE WITNESS: Sorry.

15 BY MR. KARP:

16 Q. Thank you. Is this School
17 Performance Report based on information
18 that Union Avenue Middle School submitted
19 to the state?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: It should be.

23 BY MR. KARP:

24 Q. Do you have any reason to
25 believe that that's not the case here for

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1 the 2023-2024 school year?

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: I don't know how
5 to answer that question.

6 BY MR. KARP:

7 Q. According to the state,
8 81.1 percent of students at Union Avenue
9 Middle School were economically
10 disadvantaged.

11 Do you see that?

12 A. Yes, I do.

13 Q. 9.3 percent of students at
14 Union Avenue Middle School were identified
15 as students with disabilities?

16 A. Yes.

17 Q. 27.4 of students were
18 identified as multilingual learners?

19 A. That's what it says, yes.

20 Q. 0.3 percent of students were
21 identified as experiencing homelessness.

22 Do you see that?

23 A. Yes.

24 Q. 0.3 percent of students were
25 identified as being in foster care?

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1 A. That's what it says.

2 Q. 0.1 percent of students were
3 military connected students?

4 A. Yes.

5 Q. And 0.0 percent were
6 identified as migrant students, right?

7 A. Yes.

8 Q. That's what the state of New
9 Jersey reported here?

10 A. Okay.

11 MR. RIVERA: Object to form.

12 BY MR. KARP:

13 Q. Yes?

14 A. That's what the state of New
15 Jersey reported, yes.

16 Q. What are multilingual
17 learners?

18 A. Students who primarily speak
19 non-English at home.

20 Q. Is multilingual learners a
21 different term or a term of art than ELL?

22 A. It's the same.

23 Q. Same. And does that mean
24 that their -- the primary language that
25 they speak at home is not English?

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1 MR. RIVERA: Objection to
2 form.

3 THE WITNESS: Yes, that's my
4 understanding.

5 BY MR. KARP:

6 Q. In your experience as an
7 educator, do economic disadvantages have a
8 negative impact on student mental health?

9 MR. RIVERA: Objection to
10 form.

11 THE WITNESS: In what way?

12 BY MR. KARP:

13 Q. Might students who are
14 economically disadvantaged have lower
15 academic self-esteem?

16 MR. RIVERA: Objection to
17 form, foundation. Calls for
18 speculation.

19 THE WITNESS: Can you ask that
20 question again?

21 BY MR. KARP:

22 Q. Sure. Might economic
23 disadvantages lead a student to have lower
24 academic self-esteem?

25 MR. RIVERA: Objection to

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1 form.

2 THE WITNESS: It's possible it
3 can contribute.

4 BY MR. KARP:

5 Q. How so?

6 MR. RIVERA: Objection to
7 form.

8 BY MR. KARP:

9 Q. In what way?

10 A. In what way could --

11 Q. In what way could it
12 contribute?

13 A. To low economic status --
14 what was the --

15 Q. My question was whether
16 economic disadvantage could lead a student
17 to have low self-esteem, low academic
18 self-esteem?

19 MR. RIVERA: Objection to
20 form.

21 BY MR. KARP:

22 Q. And you said it could
23 contribute, correct?

24 A. Yes, it's possible it could
25 contribute.

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1 Q. And in what ways could it
2 contribute?

3 A. The kid is disadvantaged,
4 the kid wants something that parents can't
5 afford. It could have a negative effect on
6 the kid wanting to go to school. The kid
7 might not have the nicest clothes.

8 Q. And that could be a reason
9 that the child in question avoids school?

10 MR. RIVERA: Objection to
11 form.

12 THE WITNESS: I don't know how
13 to answer that question without
14 making it sound exact and I don't
15 see this as an exact.

16 BY MR. KARP:

17 Q. Are there any other ways you
18 can think of that economic disadvantage
19 might impact a student's self-esteem?

20 MR. RIVERA: Objection to
21 form, vague.

22 THE WITNESS: Yes.

23 BY MR. KARP:

24 Q. And how so?

25 A. That there are a multitude

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1 of ways. I don't know if I can list them
2 all. If you're economically disadvantaged,
3 you may feel like you are not -- you don't
4 have enough.

5 Q. And how would that make a
6 student or a child feel?

7 MR. RIVERA: Objection to
8 form. Calls for speculation.

9 THE WITNESS: It may make them
10 feel like they don't have enough.

11 BY MR. KARP:

12 Q. Could that lead that child
13 or that student to feel depressed?

14 MR. RIVERA: Objection to
15 form. Calls for speculation.
16 Calls for expert opinion.

17 THE WITNESS: I mean, I can't
18 diagnose a kid for depression, so.

19 BY MR. KARP:

20 Q. In your experience as an
21 educator have you observed the potential
22 impact of economic disadvantage on the
23 mental health or well-being of your
24 students?

25 MR. RIVERA: Objection to

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1 form, vague.

2 THE WITNESS: I would say I
3 may have observed the opposite.

4 BY MR. KARP:

5 Q. Can you explain?

6 A. Meaning how economically
7 disadvantaged kids and people are treated
8 may have a greater effect on them than what
9 they think of themselves at times. It's
10 how poor people are treated.

11 Q. Can you tell me more about
12 that?

13 MR. RIVERA: Objection to
14 form.

15 THE WITNESS: How much time
16 you got, right? This is --

17 BY MR. KARP:

18 Q. I'll ask a more specific
19 question. Are you -- are you referring to
20 students who are bullied or taunted
21 because -- because they are economically
22 disadvantaged because they are poor or --

23 A. I think that's very --

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: Sorry. Sorry.
2 I think that that's micro. You
3 have systems that one might argue
4 bully poor people. So putting the
5 onus on the individual at times and
6 not all the outward influences on
7 the individual, I don't know how
8 to, you know, start there from a
9 causality perspective.

10 BY MR. KARP:

11 Q. And I'm certainly not trying
12 to put the onus on the individual. I'm
13 trying to understand -- or you mentioned
14 that sometimes it's about how those
15 individuals are treated, right? And I'm
16 just trying to understand that a little bit
17 better. Is bullying an example of how
18 those individuals would be treated that
19 would affect their mental health?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: I think,
23 respectfully, I think you're asking
24 a small question and I'm speaking
25 of something that's bigger. What

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1 happens from a kid to a kid or an
2 adult to a kid is so small in
3 comparison to what happens from
4 societal systems to identify groups
5 of people.

6 My original statement was
7 that I think economically
8 disadvantaged people sometimes
9 get treated bad, which can have
10 an effect on how they feel.
11 More, like, I just -- I'm trying
12 to figure out a way to answer
13 your question, but I'm conflicted
14 in providing an answer that makes
15 it seem like a finger point where
16 I think that this, it's just -- I
17 mean, the magnitude I think is
18 much larger than peer to peer.

19 BY MR. KARP:

20 Q. I understand. Thank you.

21 MR. RIVERA: Andrew, we have
22 been going for a little over an
23 hour, you think a good time for a
24 break or --

25 MR. KARP: Yeah, we can take a

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1 break here.

2 THE VIDEOGRAPHER: The time
3 right now is 2:18 p.m. We are off
4 the record.

5 - - - - -

6 (A recess was taken at this time.)

7 - - - - -

8 THE VIDEOGRAPHER: The time
9 right now is 2:33 p.m. We're back
10 on the record.

11 BY MR. KARP:

12 Q. Welcome back, Dr. Zahir. We
13 were just taking a look at Exhibit 10 and
14 I'll refer you back to that. If you turn
15 the page, there's another table called,
16 "Enrollment by Racial and Ethnic Group."

17 Do you see that?

18 A. Yes.

19 Q. There's data here for the
20 2023-2024 school year in the rightmost
21 column.

22 Do you see that?

23 A. Yes, yes, sir.

24 Q. And this section of the
25 School Performance Report from the New

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1 Jersey Department of Education breaks down
2 or provides enrollment data by racial and
3 ethnic group, correct?

4 A. Yes.

5 MR. RIVERA: Object to form.

6 BY MR. KARP:

7 Q. Looking at the data in the
8 rightmost column for the 2023-2024 school
9 year, is it your understanding that this
10 roughly describes the composition of
11 students at Union Avenue Middle School?

12 A. Yes, I guess.

13 Q. There's also data in this
14 table for the 2022-2023 school year and the
15 2021-2022 school year.

16 Do you see that?

17 A. Yes.

18 Q. Any reason to doubt the
19 accuracy of the data for the preceding
20 years?

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: I don't know how
24 to answer that question.

25

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1 BY MR. KARP:

2 Q. This is data provided by the
3 New Jersey Department of Education,
4 correct?

5 A. Yes, it appears so, yes.

6 Q. This is data that is
7 available to you as principal of Union
8 Avenue Middle School?

9 A. Yes.

10 Q. Let's turn the page to a
11 table called, "Enrollment by Home
12 Language." I believe it's on the back page
13 of it. And according to this table, it
14 shows the percentage of students by primary
15 home language.

16 Do you see that at the top?
17 Do you see that?

18 A. Yes.

19 Q. And according to the New
20 Jersey Department of Education,
21 40.8 percent of students at Union Avenue
22 Middle School for the 2023-2024 school year
23 spoke English as their primary language at
24 home.

25 Do you see that?

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1 A. Yes.

2 Q. Is that your understanding
3 as principal of Union Avenue Middle School?

4 MR. RIVERA: Object to form.

5 THE WITNESS: I'm -- I
6 understand what the graph is
7 saying. I can't speak to my
8 understanding of the graph. I
9 understand what it's saying.

10 BY MR. KARP:

11 Q. As principal of Union Avenue
12 Middle School, do you have -- do you
13 believe that more or less students than are
14 represented here in this chart speak
15 English as their primary language at home?

16 MR. RIVERA: Object to form.

17 THE WITNESS: I believe it's
18 possible that there's a
19 considerable amount more.

20 BY MR. KARP:

21 Q. And why do you say that?

22 A. Because there's a lot of
23 assumptions with this data.

24 Q. The New Jersey Department of
25 Education bases its performance reports on

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1 information that's provided by Union Avenue
2 Middle School, correct?

3 MR. RIVERA: Object to form.

4 THE WITNESS: Yes, yes, but
5 it's based on enrollment
6 information. So if there's a
7 student who was considered an MLL,
8 has the last name Quartey and their
9 parents are from Ghana, the
10 assumption is that that kid is a
11 multi-language learner and they
12 would have to test out of the
13 multi-lingual program. But at
14 home, they speak English, but they
15 may be listed as such.

16 BY MR. KARP:

17 Q. So the data provided by the
18 New Jersey Department of Education is not
19 correct?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: I can't say it
23 was correct or false, I'm saying
24 that I can -- I understand what's
25 presented, but if you're asking me

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1 is it possible for there to be
2 more, this is indicative of
3 enrollment data. How kids enroll
4 into a building and how they're
5 classified based upon demographics
6 written on a document, on a
7 document.

8 There are times when it's
9 better to assume that a kid
10 speaks another language at home,
11 because if you assume that they
12 don't, because you hear them
13 speak English, you may discount
14 services that they should be
15 given, so you may classify them
16 as such, and they can test out,
17 but to assume that they don't
18 need just because they spoke to
19 you in English, sometimes could
20 be a disservice. So based upon
21 this, it's based on enrollment
22 data.

23 BY MR. KARP:

24 Q. So Union Avenue Middle
25 School does not rely on information that it

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1 receives in its school performance reports
2 from the New Jersey Department of
3 Education?

4 MR. RIVERA: Objection to
5 form. Foundation.

6 THE WITNESS: I didn't say
7 that.

8 BY MR. KARP:

9 Q. Does Union Avenue Middle
10 School rely on enrollment data that it
11 receives from the New Jersey Department of
12 Education?

13 A. Rely on it how?

14 Q. For purposes of running the
15 school.

16 MR. RIVERA: Objection to
17 form.

18 THE WITNESS: This particular
19 information is after the fact.
20 This is information that they
21 already received from the school,
22 so we would not need to rely on
23 this to run our building, because
24 they get this from us.
25

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1 BY MR. KARP:

2 Q. Okay. So this information
3 in the table comes from Union Avenue Middle
4 School?

5 A. Based on enrollment data.

6 Q. Let's take a look at tab 11B
7 which we will mark as Exhibit 11.

8 - - - - -

9 (School Performance Report
10 on Chronic Absenteeism marked
11 Zahir Exhibit 11 for
12 identification.)

13 - - - - -

14 BY MR. KARP:

15 Q. This is a School Performance
16 Report from the New Jersey Department of
17 Education, specifically a section dealing
18 with chronic absenteeism.

19 Do you see that?

20 A. Yes.

21 Q. Let's look at the first page
22 of this document, which is a table -- which
23 includes a table called, "Chronic
24 Absenteeism Trends."

25 Do you see that?

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1 A. Yes.

2 Q. This includes data for the
3 2021-2022, the 2022-2023, and 2023-2024
4 school years.

5 Do you see that?

6 A. Yes.

7 Q. Let's focus on the 2023-2024
8 school year when you were principal of
9 Union Avenue Middle School. That data is
10 in the rightmost column.

11 Do you see that?

12 A. Yes.

13 Q. Okay. Chronic absenteeism
14 for the 2023-2024 school year at Union
15 Avenue Middle School was 18.4 percent.

16 Do you see that?

17 A. Yes.

18 Q. Okay. Just below that, we
19 see the ESSA target or state average for
20 grades served.

21 Do you see that?

22 A. Yes.

23 Q. In this instance, grades
24 served would reflect or refer to grades six
25 through eight, correct?

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1 MR. RIVERA: Objection to
2 form.

3 THE WITNESS: Yes.

4 BY MR. KARP:

5 Q. And the ESSA target or the
6 state average for grades six through eight
7 was 13.8 percent, correct?

8 A. That's what it says.

9 Q. So that's why the New Jersey
10 Department of Education reported that the
11 ESSA target was not met.

12 Do you see that?

13 MR. RIVERA: Objection to
14 form.

15 THE WITNESS: I see what it
16 says, yes.

17 BY MR. KARP:

18 Q. Chronic absenteeism at Union
19 Avenue Middle School was higher than the
20 state average for grades six through eight,
21 correct?

22 MR. RIVERA: Objection to
23 form.

24 THE WITNESS: Yes.

25

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1 BY MR. KARP:

2 Q. Let's take a look
3 historically at some of this data. Chronic
4 absenteeism at Union Avenue Middle School
5 in 2021-2022 was reported by the New Jersey
6 Department of Education as 26.4 percent.

7 Do you see that?

8 A. Yes.

9 Q. The ESSA target for that
10 year for grades six through eight was
11 16.4 percent?

12 A. Yes.

13 Q. That's a 10 percent
14 difference, yes?

15 A. Yes.

16 Q. The following year, chronic
17 absenteeism at Union Avenue Middle School
18 was 20.0 percent.

19 Do you see that?

20 A. Yes.

21 Q. The ESSA target for grades
22 six through eight was 14.8 percent, right?

23 A. Yes.

24 Q. So chronic absenteeism at
25 Union Avenue Middle School went down from

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1 the 2021-2022 school year to the 2022-2023
2 school year, correct?

3 A. That's what it says in the
4 chart.

5 Q. Not only that, but the gap
6 between Union Avenue Middle School and the
7 state target also shrunk.

8 Do you see that?

9 MR. RIVERA: Objection to
10 form.

11 THE WITNESS: Yes.

12 BY MR. KARP:

13 Q. The gap in --

14 A. That's what it says on here.

15 Q. New Jersey Department of
16 Education reported a gap of 10 percent for
17 the 2021-2022 school year, but a gap of
18 only 5.2 percent for the following school
19 year, correct?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: That's what it
23 says on here.

24 BY MR. KARP:

25 Q. That number goes down again

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1 for the subsequent year, which is
2 2023-2024.

3 Do you see that?

4 A. That's what it says on here.

5 Q. The gap for the -- between
6 chronic absenteeism -- strike that.

7 The difference between the
8 chronic absenteeism rate at Union Avenue
9 Middle School and the state target for
10 grades six through eight in the 2023-2024
11 school year was 4.6 percent, correct?

12 MR. RIVERA: Object to form.

13 THE WITNESS: That's what it
14 says.

15 BY MR. KARP:

16 Q. So from 2021 through 2024,
17 not only does the rate of chronic
18 absenteeism go down at Union Avenue Middle
19 School, but the gap between the rates at
20 Union Avenue and the state average go down,
21 correct?

22 MR. RIVERA: Object to form.

23 THE WITNESS: That's what it
24 says here.

25

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1 BY MR. KARP:

2 Q. In your experience as an
3 educator and administrator, does chronic
4 absenteeism lead to worse educational
5 outcomes for students?

6 MR. RIVERA: Objection to
7 form.

8 THE WITNESS: I don't
9 understand the question.

10 BY MR. KARP:

11 Q. I'll ask it one more time
12 just to make sure that you heard it.

13 Based on your experience as
14 a school principal and as a teacher, does
15 chronic absenteeism lead to worse academic
16 outcomes for students?

17 MR. RIVERA: Object to form.

18 THE WITNESS: No.

19 BY MR. KARP:

20 Q. Students who are chronically
21 absent do not perform worse in school?

22 MR. RIVERA: Object to form.

23 THE WITNESS: Not necessarily.
24 It's a case-by-case situation.
25

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1 BY MR. KARP:

2 Q. Being absent -- does being
3 absent from class have a negative impact on
4 a student's academic performance?

5 A. It can.

6 Q. And when a student is
7 repeatedly absent from school and misses
8 class instruction, does that have a
9 negative impact on that student's academic
10 performance?

11 MR. RIVERA: Object to form.

12 THE WITNESS: It depends on
13 the circumstances.

14 BY MR. KARP:

15 Q. So there are some
16 circumstances when chronic absenteeism does
17 not result in worse academic outcomes for
18 students?

19 A. Yes.

20 Q. Does chronic absenteeism
21 lead students to fall behind their peers
22 who are attending class?

23 MR. RIVERA: Object to form.

24 THE WITNESS: It depends.

25

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1 BY MR. KARP:

2 Q. Students who are chronically
3 absent -- strike that.

4 Does chronic absenteeism
5 lead to learning loss?

6 MR. RIVERA: Object to form.

7 THE WITNESS: What do you mean
8 by, "learning loss"?

9 BY MR. KARP:

10 Q. Missing educational
11 experiences such as lessons.

12 MR. RIVERA: Object to form.

13 THE WITNESS: Not necessarily.

14 BY MR. KARP:

15 Q. As principal of Union Avenue
16 Middle School, are you familiar with the
17 term, "learning loss"?

18 A. Yes.

19 Q. And what does that mean to
20 you?

21 A. Learning loss is when the
22 absence causes you to lose what you have
23 already learned, not missing out on what's
24 being taught.

25 Q. And does chronic absenteeism

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1 lead to learning loss?

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: Not necessarily.

5 BY MR. KARP:

6 Q. When doesn't it lead to
7 learning loss?

8 A. When a kid has high
9 retention ability.

10 Q. And in your experience as
11 principal of Union Avenue Middle School,
12 are the students who are chronically absent
13 students with high retention abilities?

14 A. That would have to be
15 something that I, that you researched or
16 dive into. It depends on the circumstance
17 or why they're chronically absent.

18 Q. Does Union Avenue Middle
19 School discourage students from being
20 chronically absent?

21 A. What do you mean by
22 "discourage"?

23 MR. RIVERA: Object to form.

24 BY MR. KARP:

25 Q. Does Union Avenue Middle

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1 School encourage students to attend school?

2 A. Yes.

3 Q. Okay. Why?

4 A. It's a state requirement.

5 Q. Is it a goal of Union Avenue
6 Middle School to lower the rate of chronic
7 absenteeism at the school?

8 A. Yes.

9 Q. Why?

10 A. I don't understand.

11 Q. Why is that a goal of the
12 school?

13 A. It's one of the ratings.
14 It's one of the areas that a school is
15 rated on.

16 Q. Why?

17 A. Because it's a requirement.

18 MR. RIVERA: Object to form.

19 THE WITNESS: It's a
20 requirement.

21 BY MR. KARP:

22 Q. So the only reason Union
23 Avenue Middle School wants its students not
24 to be chronically absent is because it's
25 rated on that?

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1 MR. RIVERA: Objection to
2 form.

3 THE WITNESS: I didn't say
4 that.

5 BY MR. KARP:

6 Q. What did you say?

7 A. I said -- I answered your
8 question and I said that it's a state
9 requirement. It's one of the areas that
10 schools are rated on.

11 Q. Other than the fact that
12 schools are rated on chronic absenteeism,
13 are there other reasons that Union Avenue
14 Middle School wants to lower the rate of
15 chronic absenteeism among students?

16 MR. RIVERA: Objection to
17 form.

18 THE WITNESS: I'm not sure how
19 to answer that question.

20 BY MR. KARP:

21 Q. What's your understanding of
22 why schools are evaluated or rated for
23 chronic absenteeism?

24 A. Because students are
25 required to attend school from kindergarten

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1 to 12th grade. And students need to be in
2 school and if your kids are not coming to
3 school, then that could be problematic for
4 your school and for the community.

5 Q. And why would that be
6 problematic for the school and the
7 community?

8 A. Because kids aren't in
9 school, supervision, education, a multitude
10 of reasons why kids go to school.

11 Q. So when students are not in
12 school, teachers or administrators can't
13 supervise what they're doing?

14 MR. RIVERA: Object to form.

15 THE WITNESS: I don't
16 understand the question.

17 BY MR. KARP:

18 Q. I asked, Why would it be
19 problematic for the school and the
20 community?" And you said, "Kids aren't in
21 school, supervision, education, a multitude
22 of reasons why kids go to school."

23 Do you recall saying that?

24 A. Yes.

25 Q. What did you mean by

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1 supervision?

2 A. If a parent goes to work and
3 their child is not in school when they are
4 expected to be, who is monitoring the
5 child?

6 Q. Does the school know -- when
7 a student is not in school, does the school
8 know what he or she is doing with his or
9 her time?

10 MR. RIVERA: Objection to
11 form.

12 THE WITNESS: It depends on
13 the circumstance.

14 BY MR. KARP:

15 Q. Does Union Avenue Middle
16 School monitor what its students do when
17 they are not at school?

18 A. Monitor, no.

19 Q. Does Union Avenue Middle
20 School track what its students do when they
21 are not at school?

22 MR. RIVERA: Objection to
23 form.

24 THE WITNESS: Track, no.

25

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1 BY MR. KARP:

2 Q. Does Union Avenue Middle
3 School monitor how much time their students
4 spend on cell phones when they are not at
5 school?

6 MR. RIVERA: Objection to
7 form.

8 THE WITNESS: Why would they?
9 I don't understand the nature of
10 the question.

11 BY MR. KARP:

12 Q. Is that a no, they don't
13 monitor?

14 A. I don't understand how to
15 answer that question.

16 Q. Okay. Does Union Avenue
17 Middle School know how much time its
18 students spend on their cell phones when
19 they are not at school?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: I don't think
23 any school does.

24 BY MR. KARP:

25 Q. To the extent Union Avenue

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1 Middle School students are using their cell
2 phones outside of school, does Union Avenue
3 Middle School know how they're using their
4 cell phones?

5 MR. RIVERA: Objection to
6 form.

7 THE WITNESS: I don't
8 understand the question, sir.

9 BY MR. KARP:

10 Q. Does Union Avenue Middle
11 School know how many text messages a
12 student sends in a given day when they're
13 not in school?

14 A. That would be an invasion of
15 privacy.

16 Q. Does Union Avenue Middle
17 School know how many hours a student spends
18 playing video games on his or her cell
19 phone when not at school?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: No.

23 BY MR. KARP:

24 Q. Does Union Avenue Middle
25 School know how much time a student -- or

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1 strike that.

2 Does Union Avenue Middle
3 School know how many hours a student spends
4 on social media when they're not at school?

5 MR. RIVERA: Objection to
6 form.

7 THE WITNESS: Unable to track
8 unless they're on a school-issued
9 Chromebook or they're logged in
10 using their school-issued Google
11 account.

12 BY MR. KARP:

13 Q. And they would be permitted
14 to access social media platforms on those
15 devices?

16 A. No.

17 Q. I'm handing you 11C, which
18 we will mark as Exhibit 12.

19 - - - - -

20 (School Performance Report
21 on Academic Achievement marked
22 Zahir Exhibit 12 for
23 identification.)

24 - - - - -

25

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1 BY MR. KARP:

2 Q. This is a School Performance
3 Report from the New Jersey Department of
4 Education specifically focused on academic
5 achievement.

6 MR. RIVERA: Object to form.

7 BY MR. KARP:

8 Q. Do you see that?

9 A. Yes.

10 Q. This is data that is part of
11 the school performance reports that are
12 issued by the state of New Jersey?

13 A. Yes, I guess so.

14 Q. Toward the back of this
15 document, the third to last page includes a
16 table called, "English Language Proficiency
17 Test - Participation and Performance."
18 Just let me know when you're there.

19 A. Yes.

20 Q. According to the New Jersey
21 Department of Education, "This table shows
22 by years in district, the number of
23 multilingual learner students taking the
24 ACCESS for ELLs Assessment for English
25 language proficiency and the number and

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1 percentage of students tested who received
2 an overall score of four and a half or
3 above. Students must receive a score of
4 four and a half or higher to be considered
5 for proficient status."

6 Do you see that?

7 A. Yes.

8 Q. And if you look at the
9 middle called percentage -- excuse me,
10 strike that.

11 If you look at the middle
12 column that says, "Percent students with
13 overall score below 4.5," there are three
14 lines.

15 Do you see that?

16 A. Yes.

17 Q. If a student has a score
18 below 4.5, they are not proficient; is that
19 correct?

20 MR. RIVERA: Object to form.

21 THE WITNESS: No, they are not
22 proficient.

23 BY MR. KARP:

24 Q. If you look at the leftmost
25 column, years in district, that reflects

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1 how many years the student has been in the
2 district; is that right?

3 A. Yes.

4 Q. And the numbers for -- or
5 strike that.

6 If we look at students who
7 have been in the district for zero to two
8 years, over 90 percent of those students
9 were not proficient.

10 MR. RIVERA: Object to form.

11 MR. KARP: Is that correct?

12 THE WITNESS: Yes.

13 BY MR. KARP:

14 Q. That's the same for students
15 who have been in the district for three to
16 four years, correct?

17 A. Yes.

18 Q. And that's also the same for
19 students who have been in the district for
20 five or more years?

21 A. Yes.

22 Q. Do students -- strike that.
23 Do language barriers affect
24 a student's ability to learn?

25 MR. RIVERA: Object to form.

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1 Vague.

2 THE WITNESS: I don't
3 understand the question.

4 BY MR. KARP:

5 Q. Do language barriers present
6 a challenge for Union Avenue Middle School
7 students to learn material in their
8 classes?

9 MR. RIVERA: Object to form.

10 THE WITNESS: I think it's --
11 it's possible.

12 BY MR. KARP:

13 Q. Let's turn the page --

14 MR. RIVERA: Sorry, do you
15 need a minute?

16 THE WITNESS: I've just got to
17 give them the clear in the front.
18 That's all.

19 BY MR. KARP:

20 Q. Do you need to take a break?

21 A. Nope, I just sent a text. I
22 apologize.

23 Q. No, no worries. Thank you.

24 Let's turn to the table
25 called, "English Language Arts Assessment

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1 Performance Trends." It's one or two pages
2 later and I think it's also displayed on
3 the screen.

4 A. Uh-huh.

5 Q. According to the New Jersey
6 Department of Education, "This graph shows
7 the percentage of students who met or
8 exceeded expectations on each grade level
9 exam on the New Jersey Student Learning
10 Assessment (NJSLA) for English Language
11 Arts (ELA) for the past three years."

12 Do you see that?

13 A. Yes.

14 Q. And there's data in this
15 paragraph for grades six, seven, and eight,
16 correct?

17 A. Yes.

18 Q. For the 2021-2022,
19 2022-2023, and 2023-2024 school years,
20 correct?

21 A. Yes.

22 Q. For all three of those
23 years, at no point, did any of the
24 students -- or strike that.

25 In none of those years did

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1 Union Avenue Middle School have more than
2 35 percent of students exhibit proficiency
3 on this exam; is that correct?

4 MR. RIVERA: Object to form.

5 THE WITNESS: Yes.

6 BY MR. KARP:

7 Q. And this is information that
8 you would have available to you as
9 principal of Union Avenue Middle School?

10 A. Yes.

11 Q. Do you recall reviewing any
12 of this data in your role as principal?

13 A. Yes.

14 Q. Let's turn the page to the
15 graph titled, "NJSLA Science Assessment
16 Grade 8 Summary." And let's look at the
17 final year listed here which is the
18 2023-2024 school year.

19 Do you see that?

20 A. Yes.

21 Q. According to the New Jersey
22 Department of Education, "This table shows
23 how students performed on the NJSLA Science
24 assessment." Excuse me, "Students scoring
25 at Level 3 or 4 are considered proficient."

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1 Do you see that?

2 A. Yes.

3 Q. According to the state,
4 68 percent of students in grade 8 were at
5 Level 1, do you see that?

6 A. Yes.

7 Q. And 31 percent of students
8 in grade 8 were at Level 2, correct?

9 A. Yes.

10 Q. 99 percent of students in
11 the eighth grade were not proficient on the
12 New Jersey Science assessment, correct?

13 MR. RIVERA: Object to form.

14 THE WITNESS: Yes, according
15 to this data.

16 BY MR. KARP:

17 Q. You can put this document to
18 the side. I'm handing you tab 11D. We'll
19 mark this as Exhibit 13.

20 - - - - -

21 (School Performance Report
22 relating to Accountability marked
23 Zahir Exhibit 13 for
24 identification.)

25 - - - - -

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1 BY MR. KARP:

2 Q. This section of the School
3 Performance Report relates to
4 accountability.

5 Do you see that?

6 A. Yes.

7 Q. What is your understanding
8 of what this section of the New Jersey
9 School Performance Report -- strike that.

10 What is your understanding
11 of the data and information that is
12 included in the accountability section for
13 this report?

14 MR. RIVERA: Objection to
15 form, vague.

16 THE WITNESS: I'm reading it.

17 BY MR. KARP:

18 Q. I'll withdraw the question.

19 Let's look at the very last
20 page of this document which includes a
21 table called, "Accountability Indicator
22 Scores and Summative Ratings - 2023-24
23 School Year."

24 Do you see that?

25 A. Yes.

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1 Q. On the left-hand side you'll
2 see a column called, "ESSA accountability
3 indicator."

4 Do you see that?

5 A. Yes.

6 Q. And there are a number of
7 items listed here from ELA proficiency to
8 math growth to chronic absenteeism.

9 Do you see that?

10 A. Yes.

11 Q. Is this what you mean -- is
12 that what you meant earlier when you said
13 that the school is evaluated based on
14 chronic absenteeism?

15 MR. RIVERA: Objection to
16 form.

17 THE WITNESS: To an extent,
18 yes.

19 BY MR. KARP:

20 Q. If we look a couple of rows
21 down from chronic absenteeism, you'll see a
22 line summative rating percentile rank.

23 Do you see that?

24 A. Yes.

25 Q. Do you have an understanding

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1 of what's meant by, "summative rating
2 percentile rank"?

3 A. The accumulation of all the
4 performance percentages, the summation of
5 that, and where it ranks in the state.

6 Q. And the percentile rank
7 indicated for Union Avenue Middle School
8 for this school year was 23.9 percent.

9 Do you see that?

10 A. Yes.

11 Q. What does that mean?

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: I don't
15 understand.

16 BY MR. KARP:

17 Q. What is your understanding
18 of what is meant by the 23.9 percentile?

19 A. Meaning we fall -- we fall
20 at that level based on the accountability
21 score.

22 Q. And what is -- what is an
23 accountability score?

24 A. Well, I mean, it's -- it's
25 basically your rating as a school, to my

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1 understanding, it's your rating as a school
2 where you are held accountable for these
3 particular categories and then how you
4 perform in those categories.

5 Q. And in this particular year,
6 Union Avenue Middle School's percentile
7 rank for these metrics or indicators was
8 23.9?

9 A. Yes.

10 Q. You can put this document to
11 the side. I'm handing you tab 13, which we
12 will mark as Exhibit 14.

13 - - - - -

14 (Email String Bates
15 BW__Irvington00083105 to
16 00083106 marked Zahir Exhibit 14
17 for identification.)

18 - - - - -

19 MR. KARP: Do we need to
20 redact this?

21 MR. RIVERA: Yeah, we need to
22 redact the student names from this
23 document.

24 MR. KARP: Okay. Do we need
25 to go off the record --

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1 MR. RIVERA: Yes.

2 MR. KARP: To do that
3 before -- sure. Let's go off the
4 record.

5 THE VIDEOGRAPHER: The time
6 right now is 3:09 p.m. We are off
7 the record.

8 - - - - -

9 (A recess was taken at this time.)

10 - - - - -

11 THE VIDEOGRAPHER: The time
12 right now is 3:16 p.m. We are back
13 on the record.

14 BY MR. KARP:

15 Q. Welcome back, Dr. Zahir. We
16 took a brief break to redact one of the
17 documents that I handed you. The redacted
18 version of this document will be marked as
19 Exhibit 14.

20 A. Uh-huh.

21 Q. This is an email from
22 October -- or strike that.

23 This is an email chain from
24 October 13, 2023. Do you see that?

25 A. Yes.

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1 Q. The subject line is
2 regarding parent concern. Do you see that?

3 A. Yes.

4 Q. If we look down at the
5 bottom of the first page, there is an email
6 from a Amirah Cureton --

7 A. Uh-huh, yes.

8 Q. -- to you?

9 A. Yes.

10 Q. Who is Ms. Cureton?

11 A. I'm not sure. I know she
12 works for central office and she may be --
13 she may be someone's secretary. Maybe one
14 of the -- maybe Dr. Adeboyega's secretary,
15 I'm not sure.

16 Q. In her signature block it
17 indicates confidential administrative
18 secretary --

19 A. Yes.

20 Q. -- assistant
21 superintendent's office? Does that refresh
22 your memory?

23 A. Yes, yes.

24 Q. And Ms. Cureton writes to
25 you about a mother who called and stated

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1 that she was concerned about the behavior
2 of students at Union Avenue Middle School.
3 Do you see that?

4 A. Yes.

5 Q. "She said that her children
6 are constantly being picked on and as a
7 result, they are becoming depressed."

8 A. Yes.

9 Q. "She is considering
10 homeschooling."

11 A. Yes.

12 Q. Do you recall this incident?

13 A. Yes, I do.

14 Q. Okay. Without naming any of
15 the students or identifying them, do you
16 recall in what way they were being
17 bullied -- or strike that.

18 Without divulging their
19 names, do you recall in what way these
20 students were constantly being picked on?

21 A. No. After our findings,
22 they were not constantly being picked on.

23 Q. Was an HIB form -- strike
24 that.

25 Was an HIB claim form

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1 created for this incident?

2 MR. RIVERA: Objection to
3 form. Lacks foundation.

4 THE WITNESS: I don't
5 recall -- I don't recall because
6 this specific matter was ultimately
7 handled with a conversation with
8 the parent.

9 BY MR. KARP:

10 Q. HIB claim forms record the
11 findings of anti-bullying specialists
12 within the district; is that right?

13 MR. RIVERA: Objection to
14 form.

15 THE WITNESS: Yeah -- no, I'm
16 sorry, I don't know how to answer
17 that question.

18 BY MR. KARP:

19 Q. Sure. What is an HIB claim
20 form?

21 A. It is a form used for an
22 accusation of harassment, intimidation, or
23 bullying.

24 Q. And that -- and harassment,
25 intimidation, or bullying is sometimes

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1 referred to as HIB; is that right?

2 A. Yes.

3 Q. And that is a form of
4 contact that is defined by the state of New
5 Jersey, correct?

6 MR. RIVERA: Objection to
7 form.

8 THE WITNESS: Yes.

9 BY MR. KARP:

10 Q. HIB sets the criteria for
11 what constitutes -- sorry, strike that.

12 The state of New Jersey sets
13 the criteria for what does or does not
14 constitute HIB; is that fair?

15 MR. RIVERA: Object to form.

16 THE WITNESS: I am not certain
17 if it's federal or if it's just
18 state. I'm not sure who determines
19 the ultimate law. If it's state,
20 then, yes, it would come from New
21 Jersey Department of Education.

22 BY MR. KARP:

23 Q. And when an incident of
24 potential harassment, intimidation -- I'll
25 pause my question.

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1 MS. SCULLION: I apologize for
2 interrupting your question,
3 Counsel. We do have a question,
4 because according to our records,
5 this entire document was eventually
6 withheld for SPER.

7 MR. KARP: Was this part of
8 the recent clawbacks, because --

9 MS. SCULLION: I do not know
10 when, but the Bates number does
11 match up, my suggestion would be
12 that we take a break and try and
13 figure out what's going on with
14 this document. I also had a
15 question, how much time are we on
16 the record today?

17 MR. KARP: I think right now
18 we're probably at about four hours
19 and 20, but Danny would know
20 better.

21 THE VIDEOGRAPHER: Four hours
22 and 16 minutes.

23 MS. SCULLION: According to
24 our records, you came into this
25 deposition, Defendants came into

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1 this deposition with only about
2 three hours and 54 total minutes
3 total remaining. So our
4 understanding is that you are
5 probably over time at this point.
6 I'm happy to review that with you
7 as well, but we're definitely going
8 to need to review at the end of the
9 day where we are, because according
10 to our records, there's minimal
11 time.

12 MR. KARP: We --

13 MS. HENRY: We have a
14 different calculation.

15 MS. SCULLION: Okay.

16 MR. KARP: Yeah, and I wonder
17 if maybe one of the 30(b)(6)s is
18 being inadvertently counted.

19 MS. SCULLION: Yeah, I'm
20 looking at that and it doesn't
21 appear that this count is a
22 30(b)(6). Why don't we go off the
23 record and figure out this
24 document.

25 THE VIDEOGRAPHER: The time

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1 right now is 3:30 -- 3:22 p.m.,
2 we're off the record.

3 - - - - -

4 (A recess was taken at this time.)

5 - - - - -

6 THE VIDEOGRAPHER: The time
7 right now is 3:34 p.m. and we're
8 back on the record.

9 BY MR. KARP:

10 Q. Dr. Zahir, welcome back. We
11 just took a brief break to address a
12 potential privilege issue regarding
13 Exhibit 14 and I believe where we landed,
14 Counsel, correct me if I'm wrong, is that
15 it's fine to proceed with Exhibit 14 with
16 the redactions that have been drawn; is
17 that correct?

18 MR. RIVERA: Correct.

19 BY MR. KARP:

20 Q. We also sorted out a timing
21 issue and understand that Defendants do
22 have time left at this deposition to
23 proceed and as such, we will proceed.

24 Dr. Zahir, just before the
25 break, we were talking about HIB, do you

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1 recall?

2 A. Yes.

3 Q. And can you tell me what
4 kind of information would be contained in
5 an HIB claim form?

6 A. In a claim form?

7 Q. Correct.

8 A. It would be a statement of
9 what an individual has claimed to have
10 happened to them, possibly the name of the
11 individuals all involved, location, time,
12 things of that nature.

13 Q. And does someone at Union
14 Avenue Middle School investigate HIB claims
15 that are made by students?

16 A. Yes, we have an HIB
17 specialist in the building.

18 Q. And who is that -- who is
19 the current HIB specialist at Union Avenue
20 Middle School?

21 A. Ms. Vargas.

22 Q. Was Ms. Vargas the HIB
23 specialist at Union Avenue Middle School in
24 October of 2023?

25 A. Yes.

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1 Q. And upon receiving an HIB
2 claim form, Ms. Vargas would have
3 investigated that claim?

4 A. Yes.

5 Q. And would the results of her
6 investigation be included or recorded in
7 that claim form?

8 A. In the claim form? I'm not
9 sure if it's recorded in the claim form,
10 but if it's founded, whether it's founded
11 or unfounded, there's a report that would
12 state founded or unfounded.

13 Q. So there might be a separate
14 document that Ms. Vargas creates
15 determining one way or another whether the
16 incident qualifies as HIB?

17 A. Yes.

18 Q. Is there a name for that
19 form?

20 A. I'm not sure if there's a
21 name for the HIB form, but at some point,
22 it's reported on the SSDS document as a --
23 when we do our discipline reports for the
24 month, any HIB, founded HIBs, will be
25 reported. If it's unfounded, it's

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1 unfounded.

2 Q. Your recollection of this
3 particular incident is that the claims were
4 not founded?

5 A. I'm learning that my memory
6 is a thing now, but this particular one, I
7 don't recall it going that far simply
8 because I remember this one, like, vividly
9 and the mother involved and the situation
10 and I recall that this, I believe, this
11 ended with a conversation.

12 Q. You can put this document to
13 the side. I'm handing you tab 14, which we
14 will mark as Exhibit 15.

15 - - - - -

16 (Email String Bates
17 BW__Irvington00083094 to 00083095
18 marked Zahir Exhibit 15 for
19 identification.)

20 - - - - -

21 BY MR. KARP:

22 Q. Let me know once you've had
23 a chance to take a look.

24 A. Okay.

25 Q. This is an email chain dated

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1 October 16th through 17th, 2023.

2 Do you see that.

3 A. Yes.

4 Q. The subject line of this
5 email is regarding formal complaint and
6 then there's some personal information
7 that's been redacted.

8 Do you see that?

9 A. Yes.

10 Q. The top email in this chain
11 is from Dr. Vauss.

12 Do you see that?

13 A. Yes.

14 Q. And you are copied on this
15 email.

16 Do you see that?

17 A. Yes.

18 Q. Do you recall receiving this
19 email?

20 A. Yes.

21 Q. Let's look down on the page
22 to the email dated October 16, 2023, that
23 was sent at 11:23 a.m.

24 Do you see that email?

25 A. Yes.

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1 Q. The email reads, "This email
2 is solely for the purpose of documenting
3 that I reached out on Friday, October 13,
4 2023, to both Mr. Zahir, acting Principal
5 at Union Avenue School and Dr. Vauss,
6 acting Superintendent of Irvington Board of
7 Education in regards to school safety and
8 negative exposure."

9 Do you see that?

10 A. Yes.

11 Q. Do you recall that the
12 emails we just looked at and marked as
13 Exhibit 14 were on October 13?

14 A. Yes.

15 Q. Of the same year?

16 A. Yes.

17 Q. Do you have a recollection
18 that these emails that we're looking at in
19 Exhibit 15 relate to the same incident and
20 the same student?

21 A. Yes.

22 MR. RIVERA: Object to form.

23 THE WITNESS: Sorry.

24 BY MR. KARP:

25 Q. This parent continues to

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1 say, "I believe my children are being
2 effected negatively to the point my
3 daughter want to go elsewhere next year and
4 my son look depressed after school everyday
5 since he started."

6 Do you see that?

7 A. Yes.

8 Q. "My main concerns are as
9 follows: Profanity being used loosely by
10 students in hallways, recess and gym."

11 Do you see that?

12 A. Yes.

13 Q. "Disrespect and threats from
14 students to staff members."

15 Do you see that?

16 A. Yes.

17 Q. This parent told you about,
18 "intimidation and bullying by behavior
19 students to other students"?

20 A. Yes.

21 Q. She also reported,
22 "inappropriate conversations about sex."

23 Do you see that?

24 A. Yes.

25 Q. And lastly, she refers to,

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1 "Cleanliness and sanitation of the school
2 building. My son have to close his eyes to
3 use the urinal."

4 Do you see that?

5 A. Yes.

6 Q. That's what this parent told
7 you about in October of 2023?

8 MR. RIVERA: Object to form.

9 You can answer.

10 THE WITNESS: This parent
11 mentioned these things and then I
12 was instructed to talk to her. So
13 this is her account of what we
14 spoke about.

15 BY MR. KARP:

16 Q. You spoke to her after she
17 sent this email?

18 A. I think this email is after
19 I spoke to her.

20 Q. And are these concerns that
21 she raised with you when you had that
22 discussion?

23 MR. RIVERA: Object to form.

24 THE WITNESS: Are there
25 concerns?

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1 BY MR. KARP:

2 Q. The concerns that this
3 parent listed in her email dated
4 October 16, 2023, are these concerns that
5 she shared with you in the discussion
6 you're recalling?

7 A. I believe so, yes.

8 Q. And what did you tell this
9 parent?

10 A. I don't understand the
11 question.

12 MR. RIVERA: Objection to
13 form.

14 BY MR. KARP:

15 Q. When this parent came to you
16 and said, "profanity being used loosely by
17 students in hallways, recess and gym," how
18 did you respond?

19 MR. RIVERA: Object to form.

20 THE WITNESS: Well, I asked
21 her the source of her information,
22 because she's citing things that
23 she couldn't have possibly
24 witnessed, to find out where she
25 got all of this information from.

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1 And she said her son was telling
2 her these things.

3 I'm sorry, I recall this
4 vividly. So when I met with her
5 son and I met with her, a lot of
6 this information was then now not
7 the case. And from this
8 particular situation here, after
9 my conversation with her, she
10 felt a lot better about some of
11 the more factual things that
12 occurred. Not that it matters,
13 but her son, I believe her son
14 may be special needs, I'm not
15 certain. I don't know if there
16 was a classification there or
17 not, but there were signs and
18 what went from this being the
19 worst place to be, it was no
20 longer the case after our
21 conversation.

22 BY MR. KARP:

23 Q. Did this parent's -- did the
24 student in question continue to feel this
25 way?

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1 A. No.

2 Q. This parent reported that,
3 cleanliness and sanitation of the school
4 building was a concern and indicated that
5 her son had to close his eyes when he used
6 the urinal.

7 Do you see that?

8 A. Yes, I read it.

9 Q. Have you heard from other
10 students that they have to close their eyes
11 when they're in the bathroom?

12 MR. RIVERA: Object to form.

13 THE WITNESS: I've never heard
14 that phrase.

15 BY MR. KARP:

16 Q. Is cleanliness and
17 sanitation a problem for Union Avenue
18 Middle School?

19 MR. RIVERA: Object to form.

20 THE WITNESS: I don't know how
21 to answer that question.

22 BY MR. KARP:

23 Q. Does Union Avenue Middle
24 School struggle -- or strike that.

25 Does Union Avenue Middle

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1 School receive complaints from parents and
2 students about the cleanliness and sanitary
3 conditions of the building?

4 MR. RIVERA: Object to form.

5 THE WITNESS: I've never
6 received a complaint from a parent,
7 to my knowledge, other than this
8 parent about the cleanliness of the
9 building. I, however, I have at
10 times my own personal concerns,
11 where I speak to my custodian --
12 custodial team about a certain
13 standard of what a school should
14 be.

15 BY MR. KARP:

16 Q. And what are those concerns?

17 A. My concern is that a school
18 should be clean and we need to ensure that
19 this is a safe and clean place for people's
20 children.

21 Q. And do you approach your
22 custodial staff -- or strike that.

23 When you have approached
24 your custodial staff with these concerns,
25 is it because you felt that certain parts

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1 of the school were not being properly
2 maintained?

3 MR. RIVERA: Object to form.

4 THE WITNESS: When I first
5 arrived here, I was not happy with
6 the condition of the building and
7 one of my goals was to clean the
8 building up, because I wasn't happy
9 with the building. So that was
10 a -- that was a big thing for me.

11 BY MR. KARP:

12 Q. What exactly did you want to
13 be cleaned up?

14 A. The school.

15 Q. What parts of the school?

16 A. All of it.

17 Q. Was it dirty?

18 MR. RIVERA: Object to form.

19 You can answer.

20 THE WITNESS: I think that's
21 subjective.

22 BY MR. KARP:

23 Q. When you wanted the school
24 cleaned up, what were you observing?

25 A. I just observed that I

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1 didn't think the school was at my personal
2 standard for what I think it should be in
3 order to provide the type of education I
4 would like to provide. There was no dirty
5 rating system that it failed. There was
6 no, you know, test or nothing. It's just
7 as a new principal walking into the
8 building, there are things that you
9 pinpoint and, for me, I was not happy with
10 what I saw based upon my standards.

11 Q. And in what ways did the
12 school fall below your standards for
13 cleanliness?

14 A. Well, I can't answer that
15 question in what ways it fell below,
16 because that would mean that it was
17 somewhere and then I watched it get worse.
18 I can't say that. I can just say that if
19 you ask everyone here what's clean to them,
20 we all may have different -- what's okay,
21 we all may have different perspectives. As
22 a building leader, I know that I need to be
23 comfortable with the environment, because
24 people's kids go here.

25 Q. And when you became

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1 principal of Union Avenue Middle School,
2 you were not okay with the conditions of
3 the school?

4 A. When I first arrived, no, I
5 was not.

6 Q. Do you believe that the
7 conditions of the school sent a message to
8 the students who were learning here?

9 MR. RIVERA: Object to form.

10 THE WITNESS: I can't speak to
11 what effect it had on the kids
12 actually. That's an assumption
13 that someone could make.

14 BY MR. KARP:

15 Q. Did you -- was one reason
16 for addressing these problems a concern
17 that the state of the building and the
18 conditions of the building sent the wrong
19 message to students who were learning here?

20 MR. RIVERA: Object to form.

21 THE WITNESS: No, it for me,
22 one of my core principles is that
23 this is home and in order for me to
24 lead in the way I know that I can,
25 I can't be the only one that views

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1 this place as home. So you take
2 care of your home. Well, you have
3 to set the standard and you have to
4 say this is home, this is where we
5 are, we have to keep it clean. So
6 it's more about taking pride in
7 where you spend your time and where
8 you go to school.

9 BY MR. KARP:

10 Q. I'm handing you tab 15,
11 which we will mark as Exhibit 16.

12 - - - - -

13 (Email String Bates
14 BW__Irvington00081693 to 00081696
15 marked Zahir Exhibit 16 for
16 identification.)

17 - - - - -

18 MR. RIVERA: So if we can just
19 go off the record quickly?

20 MR. KARP: Can you explain why
21 we need to?

22 MR. RIVERA: Well, we need to
23 get some redactions on the student
24 identifying information on this
25 document as well.

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1 MR. KARP: Understood. We can
2 go off the record.

3 THE VIDEOGRAPHER: The time
4 right now is 3:52 p.m. We are off
5 the record.

6 - - - - -

7 (A recess was taken at this time.)

8 - - - - -

9 THE VIDEOGRAPHER: The time
10 right now is 4:07 p.m. We are back
11 on the record.

12 BY MR. KARP:

13 Q. Welcome back, Dr. Zahir. We
14 took a brief break to address some -- or to
15 apply some redactions to a document I
16 handed you. The redacted version of this
17 document will be marked as Exhibit 16. And
18 my understanding is that the redactions
19 were applied to respect the privacy and
20 identity of the individual student who is
21 named in this document.

22 Dr. Zahir, have you had an
23 opportunity to look over the document?

24 A. Yes.

25 Q. This is an email dated

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1 February 2, 2024, correct?

2 A. Yes.

3 Q. This is -- the email was
4 sent by Dr. April Vauss, correct?

5 A. Yes.

6 Q. And she is forwarding you an
7 email that she received that same day from
8 the parent of this student, correct?

9 A. Yes.

10 Q. Okay. And the parent was
11 updating Dr. Vauss about some of her
12 concerns; is that fair?

13 MR. RIVERA: Object to form.

14 THE WITNESS: Yes.

15 BY MR. KARP:

16 Q. Let's turn the page to Bates
17 ending in 1694. This is the second page of
18 the document. And let's look at the bottom
19 email on this page that's dated January 18,
20 2024. Are you with me?

21 A. Yes.

22 Q. And we see here that the
23 parent of this student reported an
24 incident.

25 Do you see that?

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1 A. Yes.

2 Q. In the second paragraph of
3 this email, she says, yesterday, I -- or
4 strike that.

5 I just want to be mindful of
6 the redactions here. This parent wrote,
7 "This email is to inform you that my son
8 will be out of school for a few days
9 because I need to let him see a crisis
10 counselor."

11 Do you see that?

12 A. Yes.

13 Q. She reported that her son
14 had been acting strange for the past month
15 or so and even when she asked him what was
16 wrong, he wouldn't tell her anything.

17 Do you see that?

18 A. Yes.

19 Q. She goes onto write that,
20 "Yesterday I threatened to take his phone
21 and game system if he didn't tell me. He
22 stated during lunch on January 12, 2023 an
23 unknown child ran up to him and smacked him
24 extremely hard on the back of his head. He
25 also stated since November a boy bigger

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1 then him keep poking him and shining a
2 light directly in his eye and purposely
3 sitting next to him in his math class. He
4 said most of the time he play it off and
5 laugh so the teacher won't think anything."

6 Do you see that?

7 A. Yes.

8 Q. And did you investigate this
9 report?

10 A. Yes, I did.

11 Q. And what did you learn when
12 you investigated it?

13 A. That none of this happened.

14 MR. RIVERA: Object to form.

15 THE WITNESS: I'm sorry, that
16 this is the same individual from
17 the previous October situation and
18 after watching the camera for over
19 two weeks, we never could identify
20 where the incident occurred in the
21 cafeteria. He never could identify
22 who the kid was. It started it was
23 supposedly January 16th. Then, no,
24 it wasn't the 16th, it was the
25 12th. We did the whole week. Then

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1 I don't remember which day. Then I
2 went up to the math class and I
3 asked the math teacher about him
4 and some other kid and the only
5 thing we came up with is that there
6 was a student that sat in his seat,
7 although there were no assigned
8 seats, a student sat in his seat,
9 he got upset because the teacher
10 wouldn't make the kid get up. The
11 kid said something to him, it
12 wasn't nice, the kid said something
13 to him. I addressed the kid. I
14 addressed him. The kid humbly
15 apologized and said, I'm sorry, I
16 didn't mean nothing by it. I
17 brought him downstairs. He told
18 his mother that the boy apologized
19 and everything was fine.

20 BY MR. KARP:

21 Q. Did this incident involve
22 bullying over social media?

23 A. There was, to my
24 understanding, there was no social media
25 involved in this case.

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1 Q. Let's look at the email from
2 a couple of weeks later on February 2.
3 This is the first page. Let me know when
4 you're there.

5 A. I'm there.

6 Q. Closer to the bottom of the
7 page, this parent wrote, "It's imperative
8 that the student is held accountable for
9 his undue actions. It is not ok for
10 someone to walk up while your head is
11 looking at a phone during recess and smack
12 you on the back of your head hard."

13 Do you see that?

14 A. Yes.

15 Q. And is that the student who
16 you addressed?

17 A. No. We could never find
18 that student. Where it was stated that it
19 happened and the three or four different
20 days that he said it happened, we spent
21 days investigating this, and it was
22 unfounded and it just ended up being at the
23 end, the mother got upset with the son for
24 saying that when things happen, you need to
25 let us know right away, because one of the

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1 issues was you didn't tell us when it
2 happened, you told your mother two weeks
3 later or a week and a half later. Your
4 mother expressed this concern, I guess,
5 with the superintendent, then the
6 superintendent contacted us. And then we
7 did what we did, still nothing, and then a
8 week and a half after that, it was she
9 wanted answers and I -- because I know the
10 mother. I'm familiar with her. And it was
11 another situation where the son made a
12 claim and the only thing that we got from
13 this was the young man in his math class
14 was also in his -- who was in English class
15 said to him, I didn't know it was assigned
16 seats, he kept telling me to get up and I
17 told him I'm not getting up, and I said
18 something mean to him or whatever, but
19 there was never no fight or anything
20 physical.

21 Q. Thank you. In the next
22 paragraph of this email, this parent wrote,
23 "Then on top of that he was getting
24 verbally bullied and taunted since
25 September of 2023, that I made a complaint

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1 with Mr. Wallace about certain students,"
2 and that her son was afraid to speak up due
3 to retaliation.

4 Do you see that?

5 A. She's referring to the
6 previous situation you brought up that we
7 addressed and there was never a student.

8 Q. Was this -- was this student
9 afraid to speak up because of retaliation,
10 for fear of retaliation?

11 MR. RIVERA: Object to form.

12 THE WITNESS: I can't speak to
13 what he felt, but for us, time and
14 location is what's important. And
15 when you give us a time and you
16 give us a location, we just look at
17 what's on the camera and nothing.

18 BY MR. KARP:

19 Q. The parent goes on to report
20 that her son is "being called autistic
21 constantly every day when he is not. He is
22 starting to think he is autistic."

23 Do you see that?

24 A. Yes.

25 Q. Did you investigate that

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1 claim?

2 A. That came from the kid in
3 the classroom. I think he said something
4 along those lines, whatever, I can't
5 confirm exactly what the kid said, but that
6 was in the classroom. And when I spoke
7 with the kid about his comment, his entire
8 disposition changed to a very -- his affect
9 was disappointed in himself where he said,
10 I'm so sorry, I didn't -- I didn't even
11 mean to hurt you like that. And then he
12 said, I apologize. The young man said,
13 it's okay, I accept your apology. And he
14 went to shake the boy's hand, they did --
15 her son stuck his hand out and said, it's
16 okay, he shook his hand, and I said, so
17 we're not going to have a problem anymore?
18 And the guy said, Dr. Zahir, I apologize, I
19 won't do that ever again. I walked him
20 downstairs to his mother, the boy had a
21 smile on this his face, and his mother
22 said, thank you, Dr. Zahir, for addressing
23 the situation.

24 Q. In the next paragraph, this
25 parent wrote that, "This matter was not

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1 handled expeditiously as you stated, more
2 dilatory or without serious concern for it
3 to be laws against this type stuff,
4 students commit suicide over things like
5 this, I'm not going to wait until something
6 happen to my child."

7 Do you see that?

8 A. Yes.

9 Q. As principal of Union Avenue
10 Middle School, have you received complaints
11 about how quickly incidents reported by
12 parents are addressed?

13 MR. RIVERA: Object to form.

14 THE WITNESS: Can you ask that
15 question again?

16 BY MR. KARP:

17 Q. As principal of Union Avenue
18 Middle School, have you received complaints
19 from parents that their reports of bullying
20 and other issues affecting their children
21 are not quickly addressed?

22 MR. RIVERA: Object to form.

23 THE WITNESS: Only, and very
24 limited, when what the student goes
25 home and tells their parent is not

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1 what actually happened at the
2 school. But I have a track record
3 here of addressing situations
4 immediately.

5 BY MR. KARP:

6 Q. Do you agree that bullying
7 of this nature would have a negative effect
8 on a student's mental health?

9 MR. RIVERA: Object to form.

10 THE WITNESS: I don't
11 understand the nature of something
12 that didn't occur.

13 BY MR. KARP:

14 Q. At least some of the things
15 that are indicated here by this parent did
16 occur, correct?

17 A. One.

18 MR. RIVERA: Object to form.

19 BY MR. KARP:

20 Q. One thing?

21 A. One thing. There was no
22 smacking of the head was founded. No
23 bothering since September was
24 substantiated. The only thing was the kid
25 said something to him. She describes it as

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1 calling him autistic. I can't confirm that
2 that's what the kid said, but he said
3 something in retaliation to her son telling
4 him to get out of the chair repeatedly and
5 he said no. So there was no, no -- nothing
6 founded in this situation that was bullying
7 or harassment or intimidation.

8 Q. Let's turn the page back to
9 the email from January 18, 2024 at 9:48
10 that we were looking at a few minutes ago.
11 If you look at the very last line of this
12 email, this parent wrote, "I have some text
13 from him having a breakdown. Attaching a
14 text message so we don't get lost."

15 Do you see that?

16 A. Yes.

17 Q. And then on the next page,
18 there's a text message.

19 Do you see that?

20 A. Yes, I do.

21 Q. And in this text message,
22 this parent's -- this student tells his
23 mom, "I don't want to stay at this
24 cockroach infested, asylum looking,
25 abandoned hospital looking school."

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1 Do you see that?

2 A. Yes, I do.

3 Q. Is that the school that
4 you -- you told me earlier that when you
5 joined in -- when you joined Union Avenue
6 Middle School in 2023, it did not meet your
7 standards, correct?

8 A. Yes, I said that.

9 Q. Is this the state of the
10 school when you joined?

11 A. No.

12 MR. RIVERA: Object to form.

13 BY MR. KARP:

14 Q. Did you do anything in
15 response to this to receiving this text
16 message to investigate whether the school
17 was cockroach infested?

18 MR. RIVERA: Object to form.

19 THE WITNESS: I need to be
20 clear. That text message with the
21 photo of the cockroach thing, I'm
22 not sure if I received that, but
23 whether I did or I didn't, that's
24 her son and his creative
25 description of something, but it

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1 doesn't cite any bullying,
2 intimidation, harassment, or
3 whatever.

4 BY MR. KARP:

5 Q. Are these the conditions in
6 which --

7 A. No.

8 Q. -- students -- let me start
9 the question --

10 A. Sorry, sorry.

11 Q. No problem. Are these the
12 conditions in which Union Avenue Middle
13 School students go to school?

14 MR. RIVERA: Object to form.

15 THE WITNESS: No.

16 BY MR. KARP:

17 Q. Are there cockroaches at
18 Union Avenue Middle School?

19 MR. RIVERA: Object to form.

20 THE WITNESS: Not that I've
21 seen.

22 BY MR. KARP:

23 Q. Have students reported to
24 you or other staff members that they are
25 unhappy with the conditions of the school?

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1 MR. RIVERA: Object to form.

2 THE WITNESS: No.

3 BY MR. KARP:

4 Q. This is the only complaint
5 you've ever received about the conditions
6 of the school?

7 MR. RIVERA: Object to form.

8 THE WITNESS: People, students
9 may express a concern. Teachers
10 would express a concern about if
11 the custodian cleaned their room,
12 but to the degree of an asylum
13 looking abandoned hospital, no.

14 BY MR. KARP:

15 Q. Let's take a look -- you can
16 put this document to the side. Let's take
17 a look at tab 17. Sorry, misplaced this
18 folder. I'm handing you tab 17. We will
19 mark this Exhibit 17.

20 - - - - -

21 (Email dated 3/27/23 Bates
22 BW_Irvington00351327 marked Zahir
23 Exhibit 17 for identification.)

24 - - - - -

25

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1 BY MR. KARP:

2 Q. Have you seen this document
3 before?

4 A. Yes.

5 Q. Do you recall receiving this
6 email?

7 A. Yes.

8 Q. This email is dated
9 March 27, 2023, and the subject line is,
10 "Trip to Baltimore, Basketball Uniforms,
11 Student Council Feedback."

12 Do you see that?

13 A. Yes.

14 Q. This is -- you received this
15 email from Ms. Sekou; is that right?

16 A. Yes, Mr. Sekou.

17 Q. Mr. Sekou, thank you. Who
18 is Mr. Sekou?

19 A. A math teacher at Mount
20 Vernon.

21 Q. At this point in time, you
22 were principal of Mount Vernon?

23 A. Yes.

24 Q. The third item in
25 Mr. Sekou's email reads, "During the last

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1 student council meeting, the following
2 things were expressed by students."

3 Do you see that?

4 A. Yes.

5 Q. "In the girls and boys
6 bathroom students are writing inappropriate
7 words. There is poop on the walls in the
8 first and second floor girls bathroom.
9 Overall, the bathrooms are unsanitary."

10 Do you see that?

11 A. Yes.

12 Q. Did you investigate that?

13 A. Yes.

14 Q. What did you find?

15 MR. RIVERA: Object to form.

16 THE WITNESS: I don't recall
17 that we found poop on the walls.
18 That's not to say that in an
19 elementary school, some kid may
20 have done that. I mean, these are,
21 from an outsider, this is, like,
22 disgusting. From someone who works
23 in education at an elementary
24 level, I mean, this is not
25 something that is -- does not

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1 happen, regardless of your
2 location, I don't care what part of
3 the city, state you're in. So
4 these are concerns expressed by the
5 student council at the school,
6 according to him, which is another
7 thing, you know, he's saying that
8 the kids expressed this. I can't
9 confirm or deny that the students
10 actually expressed this.

11 BY MR. KARP:

12 Q. Mr. Sekou reported this to
13 you in his email on March 27th, correct?

14 A. Yes.

15 Q. Is it common for elementary
16 schools to be -- elementary school
17 bathrooms to be kept in this kind of
18 condition?

19 MR. RIVERA: Object to form.

20 You can answer.

21 THE WITNESS: No.

22 BY MR. KARP:

23 Q. You said, as an outsider, it
24 sounds disgusting, correct?

25 A. As an outsider reading this,

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1 it sounds disgusting.

2 Q. It doesn't sound disgusting
3 as an insider is what you're saying?

4 A. It sounds disgusting
5 regardless, but this is -- this would not
6 be the first time that a custodian would
7 have to be called to a bathroom because of
8 something that was done in the bathroom.

9 Q. Students, according to
10 Mr. Sekou, students at the student council
11 meeting reported that the bathrooms were
12 unsanitary, correct?

13 A. According to Mr. Sekou.

14 Q. Do you have a reason to
15 doubt Mr. Sekou?

16 A. Yes.

17 Q. And why is that?

18 A. Because there have been
19 numerous times when Mr. Sekou has said
20 things that were not true.

21 Q. And on what occasions would
22 those be?

23 A. I can't recall them all, but
24 you're asking me, do I have reason to
25 doubt, my answer is yes. Now, am I saying

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1 that this is not a possibility, I am not
2 saying that, but do I have reason to doubt,
3 yes.

4 Q. Your opinion of Mr. Sekou is
5 that he doesn't tell the truth?

6 MR. RIVERA: Object to form.

7 THE WITNESS: My opinion is
8 based on circumstances where he did
9 not tell the truth.

10 BY MR. KARP:

11 Q. But sitting here today, you
12 can't remember those specific instances?

13 A. No, not all of them, no.

14 Q. He also reported, "Fights
15 are happening during recess. Student
16 Council members stated that when they tell
17 their teachers, the issue is not
18 addressed."

19 Do you see that?

20 A. Yes, I do.

21 Q. And then Mr. Sekou provides
22 some additional detail on the list he
23 provides, correct?

24 A. Yes.

25 Q. He asks, "What is causing

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1 fights?" First item is unwanted touching.

2 Do you see that?

3 A. Yes.

4 Q. The second is roasting?

5 A. Yes.

6 Q. The third is taking other
7 people's things?

8 A. Yes.

9 Q. All of these are some form
10 of bullying; is that fair?

11 MR. RIVERA: Object to form.

12 THE WITNESS: No, not fair.

13 BY MR. KARP:

14 Q. Okay. Why not?

15 A. Because touching, unwanted
16 touching is not bullying.

17 Q. Understood. The next item
18 is cyberbullying on Roblox, TikTok, and
19 Instagram.

20 Do you see that?

21 A. Yes.

22 Q. And these are elementary
23 school students?

24 A. That he's speaking of, yes.

25 Q. You mentioned earlier that

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1 you had no -- you didn't know if first
2 graders had cell phones, do you recall
3 that?

4 A. I didn't say that -- I
5 didn't know if first graders had cell
6 phones.

7 Q. When you were principal of
8 Mount Vernon -- of the Mount Vernon School,
9 did you know whether your students had cell
10 phones?

11 A. I didn't know all of them,
12 but I knew that in comparison to a middle
13 school, that it's not a close amount.

14 Q. Cyberbullying on Roblox,
15 TikTok, and Instagram is what Mr. Sekou
16 reported to you, correct?

17 A. That's what's in the email.

18 Q. Do you know what Roblox is?

19 A. Yes, I do.

20 Q. What is Roblox?

21 A. Roblox is a game, it's a
22 community-based game where kids can play
23 against each other and they can purchase
24 items to support their characters.

25 Q. Are you aware of whether

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1 Roblox is a defendant in this lawsuit?

2 A. I'm not sure.

3 MR. RIVERA: Object to form.

4 THE WITNESS: I'm not sure.

5 BY MR. KARP:

6 Q. Has Roblox caused a
7 disruption to instruction at -- or strike
8 that.

9 Was Roblox causing a
10 disruption to instruction at Mount Vernon?

11 A. Not to my knowledge.

12 MR. RIVERA: Objection to
13 form.

14 BY MR. KARP:

15 Q. Does Roblox cause a
16 disruption to instruction in Union Avenue
17 Middle School?

18 MR. RIVERA: Object to form.

19 THE WITNESS: Cause a
20 disruption to my -- to the
21 instruction? The kids aren't
22 playing Roblox during class time.
23 I'm not sure how to --

24 BY MR. KARP:

25 Q. Are students at Union Avenue

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1 Middle School using Roblox while they're at
2 school?

3 A. In class, I'm not sure.

4 Q. Any time that they're at
5 school.

6 MR. RIVERA: Object to form.
7 You can answer.

8 THE WITNESS: I can't confirm
9 whether they are or they're not.

10 BY MR. KARP:

11 Q. You're not sure what
12 those -- what students are doing on their
13 cell phones?

14 MR. RIVERA: Object to form.

15 THE WITNESS: I can't say that
16 either. I can't say that I'm not
17 sure, because there are instances
18 where I have confirmation of what
19 they're doing on their phones.

20 BY MR. KARP:

21 Q. In some instances, you don't
22 know what they're doing on their phones?

23 A. I don't understand the
24 question.

25 Q. When you -- when you see

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1 students on their phones at Union Avenue
2 Middle School, do you know what they're
3 doing on their phones?

4 MR. RIVERA: Object to form.

5 THE WITNESS: I don't know how
6 to answer that question.

7 BY MR. KARP:

8 Q. You testified that sometimes
9 you have confirmation of what students are
10 doing on their cell phones, correct?

11 A. Yes.

12 Q. And sometimes you don't,
13 correct?

14 A. I don't -- I don't know how
15 to answer the opposite of what you just --
16 like, I don't know how to answer that,
17 sometimes I don't.

18 Q. When you confiscate a cell
19 phone from a student at Union Avenue Middle
20 School, do you always know what that
21 student was doing on his or her phone?

22 MR. RIVERA: Object to form.

23 THE WITNESS: Do I always know
24 what a student is doing on their
25 phone when I confiscate their

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1 phone? These are case-by-case
2 scenarios. I don't know how to
3 answer that question.

4 BY MR. KARP:

5 Q. Let's go back to the
6 document, Exhibit 17. Mr. Sekou reported
7 cyberbullying on TikTok.

8 Do you see that?

9 A. Yes.

10 Q. Do you know what he was
11 referring to?

12 A. No, I do not.

13 Q. He also reported
14 cyberbullying on Instagram.

15 Do you see that?

16 A. Yes, I do.

17 Q. Do you know what he was
18 referring to?

19 MR. RIVERA: Object to form.

20 THE WITNESS: In this
21 situation, no, I do not.

22 BY MR. KARP:

23 Q. He also goes on to say,
24 students -- Mr. Sekou goes on to say,
25 "Students are creating their own Google

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1 Meet links and arguing."

2 Do you see that?

3 A. Yes.

4 Q. Do you have any personal
5 knowledge of those students?

6 A. I can't speak to what he's
7 citing here, but am I familiar with Google
8 Meet links that turn into arguments, yes,
9 just like I'm familiar with cyberbullying
10 on Instagram and TikTok.

11 Q. You said you're familiar
12 with Google Meet things -- excuse me, you
13 said that you're familiar with Google Meet
14 things that turn into arguments, correct?

15 A. Yes.

16 Q. Is that something you
17 observed at Mount Vernon?

18 A. If my memory serves me
19 correct, yes. Like, off the top of my
20 head, all of the details, I can't recall,
21 but yes, there was a Google Meet that was
22 created and kids were talking about each
23 other, yes.

24 Q. A link to a Google meeting
25 would be circulated, students would join,

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1 and then they would argue over video?

2 MR. RIVERA: Object to form.

3 THE WITNESS: Yes. Over a
4 video?

5 BY MR. KARP:

6 Q. They would argue at the
7 Google meeting?

8 A. Well, it would -- so it
9 could be a Google Meet where it's visual
10 and they're arguing or it could be like a
11 Google Classroom and then they're saying
12 mean things to each other using words.

13 Q. They're -- okay. They're
14 saying mean things, hurtful things, to each
15 other in that Google Classroom -- over that
16 Google Classroom platform?

17 MR. RIVERA: Object to form.

18 BY MR. KARP:

19 Q. Is that what you're saying?

20 A. Not just Google, Instagram,
21 SnapChat, all of them.

22 Q. I understand, and I'm just
23 trying to understand here to the extent
24 that you're talking -- that we're talking
25 about Google Meet and the links and what

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1 you're familiar with. So let me ask my
2 question again.

3 At Mount Vernon, you
4 observed that some students were
5 circulating Google Meet links and arguing
6 over Google Meet either over video or by
7 sending mean messages to each other --

8 MR. RIVERA: Objection to
9 form.

10 MR. KARP: -- correct.

11 THE WITNESS: I was informed
12 of a situation, a couple of
13 situations actually, not one, where
14 students were on a Google chat,
15 whether it was a meet where it's
16 visual or whether it was in a
17 Google Classroom that it created,
18 where they were saying things and
19 bullying people or posting images
20 or whatever and it was through
21 their Google account.

22 BY MR. KARP:

23 Q. And these are
24 school-provided or district-provided gmail
25 accounts?

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1 A. I can't confirm if they were
2 all district Google accounts or if kids
3 created their own, so I can't speak to
4 that.

5 Q. The district does provide
6 students with their own Google accounts,
7 correct?

8 MR. RIVERA: Object to form.

9 THE WITNESS: For the purposes
10 of education, yes.

11 BY MR. KARP:

12 Q. Sitting here today, do you
13 know if students can -- can G chat or send
14 messages over Google chat using their
15 district-provided accounts?

16 A. I'm not sure. I can say
17 that anything that they do using their
18 Google log-in is flagged if it's negative
19 or inappropriate. There's something put in
20 place by the school so that we don't foster
21 that type of negative behavior using the
22 means and methods that we provided for
23 them.

24 Q. Is that the GoGuardian
25 software?

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1 MR. RIVERA: Object to form.
2 Foundation.

3 THE WITNESS: I believe so.

4 BY MR. KARP:

5 Q. You said that you had heard
6 about these incidents involving Google Meet
7 links?

8 A. There was -- like, this is
9 three years ago, or two years ago, but
10 there was a situation that was reported to
11 me where I had to address issues like that,
12 yes.

13 Q. Did you see any of the
14 actual messages that were being exchanged
15 by these students?

16 A. In some cases, yes, I
17 believe some parents may have taken
18 screenshots of them. Some kids may have
19 taken screenshots of them.

20 Q. And is there a record of
21 those incidents?

22 MR. RIVERA: Object to form.

23 THE WITNESS: That would
24 depend on the nature of the
25 complaint. If a student reported

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1 that they were being bullied and
2 they provided that evidence, then
3 that information could be part of
4 an HIB investigation. And then if
5 it seemed to be appropriate, maybe
6 it was stored by the person who did
7 the HIB over at Mount Vernon.

8 BY MR. KARP:

9 Q. These -- these incidents --
10 or strike that.

11 Mount Vernon would have
12 maintained records of these incidents?

13 A. They should have.

14 Q. And those records would
15 include screenshots of the messages if any
16 were taken?

17 A. If they were --

18 MR. RIVERA: Object to form.

19 THE WITNESS: If they were
20 part of the investigation, yes.

21 BY MR. KARP:

22 Q. To the extent students were
23 using Google Meet to argue over video, did
24 you ever see those videos?

25 MR. RIVERA: Object to form.

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1 THE WITNESS: I don't recall
2 seeing an actual video where
3 someone took a screen recording of
4 a video from Mount Vernon, but I
5 recall dealing with situations
6 because of what occurred during the
7 group chat.

8 BY MR. KARP:

9 Q. We have been talking
10 specifically about Mount Vernon. Have
11 students at -- have students at Union
12 Avenue Middle School used Google Meet links
13 to argue and say mean things to each other?

14 A. In middle school, you would
15 see more Instagram, SnapChat, TikTok,
16 because now they have cell phones, most of
17 them, the majority of them have cell
18 phones, so there wouldn't be a need to
19 resort to a Chromebook or a laptop, it
20 would be on a cell phone.

21 Q. We'll circle back to that.
22 Let's return to Mount Vernon for a minute.
23 Are you aware of instances of bullying that
24 occurred at Mount Vernon over TikTok?

25 MR. RIVERA: Object to form.

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1 You can answer.

2 THE WITNESS: Over TikTok? So
3 it -- I don't understand the
4 question.

5 BY MR. KARP:

6 Q. Let me -- actually, let me
7 zoom out and ask a different question.
8 Remind me of the dates when you were
9 principal at Mount Vernon.

10 A. July 7, 2002, to June 30,
11 2003.

12 Q. Did you mean 2022?

13 A. 2022, yes, sorry.

14 Q. Through June 30, 2023?

15 A. Yes, sorry about that.

16 Q. No problem. During that
17 time, do you recall any incidents that
18 occurred involving students in which you
19 believe social media had a negative impact
20 on student mental health?

21 A. Yes.

22 Q. Can you tell me about those?

23 A. It's a lot of them. One
24 example, there was a young lady who got
25 into a fight after school and the kids

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1 recorded the fight. And one of the
2 individuals who had a cell phone recorded
3 the fight and then may have shared it with
4 some of the other kids in the fourth and
5 fifth grade who had phones. They took the
6 fight and posted it on Instagram. And in
7 the -- I found out about it, because in the
8 classroom, there was an argument -- I'm
9 really trying to put this together, so I
10 apologize, but in the classroom, there was
11 an argument, and I don't want to conflate
12 the two. This particular situation, I
13 believe in the classroom there was an
14 argument about it. The kids were brought
15 to my office. I spoke to them. I was able
16 to recover the video that was posted on
17 Instagram and avoid there being an
18 additional fight. But the original fight
19 was on Instagram and it was pretty bad.
20 The young lady was, she was -- she was
21 banged up pretty bad and they recorded it
22 and posted it.

23 I mean this is -- the thing
24 about elementary school is that although
25 most kids don't have phones, if something

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1 is captured on a phone, then at recess or,
2 you know, when kids, you know, congregate,
3 they're showing it and they're exposing
4 what was recorded and what may have been
5 posted on the social media page.

6 Q. First of all, I'm sorry that
7 happened to that student. To make sure I'm
8 understanding, there was a fight that
9 occurred in person, that fight was
10 recorded, and then that fight was shared;
11 is that correct?

12 MR. RIVERA: Object to form.
13 You can answer.

14 THE WITNESS: Yes.

15 BY MR. KARP:

16 Q. The video of that fight was
17 shared?

18 A. Yes.

19 Q. And you were able to recover
20 the video and watch the video?

21 A. I was shown the video, yes.

22 Q. And your recollection is
23 that that video was posted to Instagram?

24 A. I saw it on Instagram. I'm
25 not sure why the kid had an Instagram

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1 account, but that's another story.

2 Q. Did you say that this fight
3 took place at lunchtime?

4 MR. RIVERA: Object to form.

5 THE WITNESS: No, this fight
6 took place after school on the way
7 home.

8 BY MR. KARP:

9 Q. Did you say that the video
10 was shared during lunchtime?

11 MR. RIVERA: Object to form.

12 THE WITNESS: Shared in a
13 sense that it was shown. I mean,
14 it's shown.

15 BY MR. KARP:

16 Q. Students are allowed to have
17 their cell phones out during lunch?

18 A. No, at Mount Vernon, when I
19 was at Mount Vernon, cell phones were --
20 cell phone usage in school was not a major
21 issue while I was at Mount Vernon. Under
22 my leadership, there were just certain
23 expectations and, like I said, you have
24 kids as young as three years old and kids
25 as old as ten. The grade levels where you

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1 saw more phones were fourth and fifth
2 graders, some, very few third graders. A
3 second grader or a first grader with a cell
4 phone was rare. So we didn't have that
5 issue, you know. If it was seen, it was
6 addressed, you know, brought to my office,
7 parent pick them up after school, they
8 would get it. It's a different environment
9 there.

10 Q. So the policy at Mount
11 Vernon -- strike that. Am I understanding
12 you correctly that students at Mount Vernon
13 were not permitted -- or strike that.

14 Mount Vernon policy at the
15 time that you were principal was that
16 students should not have their phones out
17 during lunch?

18 MR. RIVERA: Object to form.

19 THE WITNESS: Mount Vernon
20 does not have a policy, the
21 district has a policy.

22 BY MR. KARP:

23 Q. And does Mount Vernon adhere
24 to that policy?

25 A. Yes, when I was there, we

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1 adhered to the district policy.

2 Q. And did the district policy
3 allow students to have their phones out
4 during lunch without having them
5 confiscated?

6 A. The district policy does not
7 speak to that.

8 Q. The district policy does not
9 speak to use of cell phones during the
10 lunch period?

11 A. No, it does not.

12 Q. So it's up to individual
13 schools to interpret the policy?

14 MR. RIVERA: Object to form.

15 THE WITNESS: I don't know how
16 to answer that question.

17 BY MR. KARP:

18 Q. It's up to individual
19 schools to make decisions about whether to
20 allow their students to use their cell
21 phones during lunch without disciplining
22 them?

23 MR. RIVERA: Objection to
24 form.

25 THE WITNESS: Principals have

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1 procedural autonomy at times and
2 when a principal believes that this
3 is something that the kids can do
4 safely, then there are
5 opportunities for you to do that,
6 but it's not a school policy.

7 BY MR. KARP:

8 Q. While you were principal of
9 Mount Vernon, you did not require students
10 to conceal their cell phones during lunch,
11 correct?

12 MR. RIVERA: Object to form.
13 You can answer.

14 THE WITNESS: I don't recall
15 having to address what students
16 could or could not do with their
17 cell phones for grades P3 through
18 grades three. For grades four and
19 five, cell phones were not
20 permitted.

21 BY MR. KARP:

22 Q. Why not have a policy that
23 just applies to the school generally?

24 MR. RIVERA: Objection.

25 THE WITNESS: I don't

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1 understand the question.

2 BY MR. KARP:

3 Q. Why not require the
4 concealment of phones for all grade levels?

5 MR. RIVERA: Object to form.

6 THE WITNESS: That was the
7 district's policy.

8 BY MR. KARP:

9 Q. And did you require -- the
10 fight that occurred involving the student,
11 what grade was she in?

12 A. Fourth grade -- third,
13 actually, fourth grade, I believe, fourth
14 grade.

15 Q. And these students were not
16 supposed to have their phones out during
17 lunch?

18 MR. RIVERA: Object to form.

19 THE WITNESS: No, they were
20 not.

21 BY MR. KARP:

22 Q. Do you recall what this
23 fight was about?

24 A. No.

25 Q. Are you aware of any other

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1 incidents that occurred at Mount Vernon
2 High School [sic] in which you believe
3 social media harmed students?

4 A. Yes.

5 Q. What else?

6 A. It's just that social media,
7 it's ingrained in so much of what happens
8 at elementary, even more at middle, and
9 even more at high school. Citing each
10 event is going to be -- I mean, you're
11 talking the moment something happens after
12 school, someone who happens to have a phone
13 records it. And after they record it, they
14 either create a group chat on a social
15 media platform or they publicly post it or
16 they create a page solely dedicated to
17 fights at the school. So, at some point,
18 social media will be part of it, because of
19 the nature of how they utilize social
20 media.

21 Q. Students -- I didn't mean to
22 cut you off, I'm sorry.

23 A. No, I'm just saying, so to
24 cite one or two or every, I don't think is
25 practical for this setting.

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1 Q. Students record video or
2 take pictures of things that they see,
3 those videos and images are posted to
4 social media, they get shared; is that
5 right?

6 MR. RIVERA: Object to form.
7 You can answer.

8 THE WITNESS: Yes.

9 BY MR. KARP:

10 Q. And that causes disruption?

11 MR. RIVERA: Object to form.

12 THE WITNESS: Yes.

13 BY MR. KARP:

14 Q. And that affects the mental
15 health of those students?

16 MR. RIVERA: Object to form.

17 THE WITNESS: I believe -- I
18 believe so. I believe so.

19 BY MR. KARP:

20 Q. And is that -- we were just
21 talking about Mount Vernon, is that also
22 true for Union Avenue Middle School?

23 A. Times 30.

24 MR. KARP: We have been going
25 for a little bit and I think I can

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1 take a minute to figure out what
2 final questions I have, if we can
3 take a brief break.

4 MR. RIVERA: Sure.

5 THE VIDEOGRAPHER: The time
6 right now is 4:53 p.m. We are off
7 the record.

8 - - - - -

9 (A recess was taken at this time.)

10 - - - - -

11 THE VIDEOGRAPHER: The time
12 right now is 5:03 p.m. We're back
13 on the record.

14 BY MR. KARP:

15 Q. Welcome back, Dr. Zahir. In
16 your role as principal of Union Avenue
17 Middle School, do you evaluate the
18 performance of teachers?

19 A. Yes.

20 Q. How often do you evaluate
21 their performance?

22 A. I don't know what you mean.

23 Q. Do you hold annual reviews
24 of your teachers?

25 A. Summative reviews, yes.

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1 Q. You said summative?

2 A. Summative.

3 Q. And what is a summative
4 review?

5 A. It's a summation of their
6 formative reviews.

7 Q. And how many reviews do
8 teachers at Union Avenue Middle School
9 receive in a given year?

10 A. It depends on their tenure
11 status.

12 Q. Can you provide me with a
13 range?

14 A. Tenured, minimum two.
15 Nontenured, minimum three.

16 Q. So teachers at Union Avenue
17 Middle School receive between two and -- or
18 at least two formative reviews during the
19 year and then they receive a summative
20 review at the end of the year?

21 A. Yes.

22 Q. What criteria do you use to
23 evaluate teachers during their formative
24 reviews?

25 A. Danielson model. We use the

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1 Charlotte Danielson.

2 Q. Are teachers evaluated -- or
3 strike that.

4 Do teacher evaluations have
5 an impact on teacher compensation?

6 A. There's a possibility.
7 There's no such things as merit pay, but
8 based on a teacher's performance there is a
9 possibility for withholding of increment.

10 Q. Can you give me an example
11 of when that would occur?

12 A. Let's say a teacher
13 demonstrates a dereliction of duty and is
14 absent 42 days, 50 days, after all of the
15 meetings and, you know, conversations you
16 have with a teacher, you can recommend that
17 the teacher be put on what's called a
18 corrective action plan and you can withhold
19 an increment, so that next year, they don't
20 get their incremental bump in pay.

21 Q. So a teacher could be paid
22 less for not meeting certain standards or
23 expectations?

24 MR. RIVERA: Object to form.

25 THE WITNESS: Not paid less,

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1 will not receive the next
2 increment.

3 BY MR. KARP:

4 Q. A teacher's future pay could
5 be impacted by a failure to meet the
6 school's standards or expectations?

7 A. Yes.

8 MR. RIVERA: Object to form.

9 BY MR. KARP:

10 Q. You said there's no merit
11 pay?

12 A. I wish, no.

13 Q. Teachers are not paid more
14 for doing an exceptional job?

15 A. That's the business of
16 education.

17 Q. Are teachers paid more or
18 less based on what they do with their
19 school days?

20 MR. RIVERA: Object to form.

21 THE WITNESS: I don't
22 understand the question.

23 BY MR. KARP:

24 Q. Are teachers paid more or
25 less based on whether they spent -- or

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1 strike that.

2 Are students paid more or
3 less based on the academic performance of
4 their students?

5 MS. SCULLION: Teachers?

6 MR. RIVERA: Objection. You
7 said students.

8 BY MR. KARP:

9 Q. Thank you. Sorry. It has
10 been a long day. Strike that.

11 Are teachers paid more based
12 on the academic performance of their
13 students?

14 A. I wish, no.

15 Q. Are -- well, let's shift
16 gears a little bit. As principal of Union
17 Avenue Middle School, do you receive a
18 salary?

19 A. Yes.

20 Q. Do you also receive
21 benefits?

22 A. I'm offered benefits, yes.

23 Q. Do those benefits include
24 health insurance?

25 A. Yes.

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1 Q. What other benefits are
2 included?

3 MR. RIVERA: Objection to
4 form.

5 THE WITNESS: Medical, dental,
6 maybe vision.

7 BY MR. KARP:

8 Q. Do you receive performance
9 evaluations as principal?

10 A. I have, yes.

11 Q. How many times have you
12 received evaluations as principal of Union
13 Avenue Middle School?

14 A. None.

15 THE STENOGRAPHER: How many?

16 THE WITNESS: None.

17 BY MR. KARP:

18 Q. Do you know how your salary
19 is determined?

20 A. It's based upon experience
21 and what you negotiate before you're hired
22 and then after that, you're on a step.

23 Q. And the step refers to
24 changes in your salary in subsequent years?

25 MR. RIVERA: Object to form.

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1 THE WITNESS: I don't
2 understand the question.

3 BY MR. KARP:

4 Q. What did you mean by,
5 "step"?

6 A. So your step could be your
7 qualifications and years of service as a
8 combination. So, let's say, if you have a
9 master's plus 30 additional credits, and
10 you have been an administrator for six
11 years, you would be a master's plus 30,
12 step six. And then you could negotiate to
13 come in higher than you are qualified
14 depending on the extent of the need, but
15 once you come in, then there is no merit
16 pay or increment based upon performance.

17 Q. So once that initial salary
18 is determined, there's no additional
19 negotiation that happens in later years?

20 A. No.

21 MR. RIVERA: Object to form.

22 BY MR. KARP:

23 Q. It's -- your pay is simply
24 determined by the combination of some of
25 the factors that you listed like your --

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1 what degrees you have and what courses
2 you've taken or how many credits you have;
3 is that right?

4 MR. RIVERA: Objection to
5 form.

6 THE WITNESS: When you are
7 hired, you provide a résumé, proof
8 of employment, and so on and so
9 forth. There are multiple factors
10 that go into it. For example,
11 let's say, in this district, they
12 may have a different pay scale than
13 another district. So in the
14 previous district, I may have two
15 years' administrative experience,
16 but my pay is more than five years
17 of administrative experience in
18 this district. Coming into this
19 district, I can negotiate to not
20 have a lateral financial move. I
21 can say, well, if you want me, you
22 have to make it financially worth
23 my while. That means that I may be
24 put on step seven, step eight,
25 which would constitute me wanting

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1 to leave my old job and come here.

2 Now that I'm here and we
3 agree on that step, I may not
4 have the tangible qualifications,
5 but being recruited, coming from
6 somewhere that pays more, that's
7 how they compensate for your
8 recruitment. But once you start,
9 you only move up whatever the
10 contract allows based upon
11 percentage increase.

12 BY MR. KARP:

13 Q. Thank you for that
14 explanation.

15 Does your salary in a given
16 year change based upon whether you
17 addressed two incidents of cheating in a
18 year or 30 incidents of cheating in a year?

19 MR. RIVERA: Objection to
20 form.

21 THE WITNESS: Of cheating.

22 BY MR. KARP:

23 Q. Of students cheating.

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: No.

2 BY MR. KARP:

3 Q. Does your salary in a given
4 year change based on whether you have
5 addressed 20 fights at school or 50 fights
6 at school?

7 MR. RIVERA: Objection to
8 form.

9 THE WITNESS: I don't know how
10 to answer that question. I can say
11 not doing your job can cause you to
12 be non-renewed. So if in your job
13 you are to maintain a positive
14 climate and culture, and you don't
15 by way of not addressing fights,
16 not addressing cheating, not
17 addressing whatever, and it's
18 deemed that you are not a viable
19 candidate, then you can be removed.

20 BY MR. KARP:

21 Q. Does any part of your
22 day-to-day activities -- or strike that.

23 Does any of part of your
24 day-to-day responsibilities as principal of
25 Union Avenue Middle School affect the

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1 amount of health insurance coverage you
2 receive?

3 MR. RIVERA: Object to form.
4 Well outside the scope.

5 THE WITNESS: I don't
6 understand the question.

7 BY MR. KARP:

8 Q. How is your health insurance
9 covered determined?

10 MR. RIVERA: Object to form.
11 Again, well outside the scope.

12 THE WITNESS: I don't know how
13 they calculate it, but if you're
14 employed, you have health
15 insurance.

16 BY MR. KARP:

17 Q. The district offers you
18 health insurance --

19 A. Yes --

20 Q. -- every year?

21 A. -- it comes with the job.

22 Q. And does the health
23 insurance you're offered vary based on what
24 it is you do during the day as principal?

25 MR. RIVERA: Object to form.

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1 THE WITNESS: No.

2 BY MR. KARP:

3 Q. Do any of your benefits,
4 such as medical, dental, or vision vary
5 based on what you do during the day as
6 principal of Union Avenue Middle School?

7 MR. RIVERA: Objection to
8 form.

9 THE WITNESS: No.

10 BY MR. KARP:

11 Q. Dr. Zahir, do you use social
12 media in your personal life?

13 A. Yes.

14 Q. What social media accounts
15 do you have?

16 A. I have Facebook. I have
17 Instagram, but I don't really use it. I
18 got TikTok back after Trump got rid of it.
19 LinkedIn. If there's something else out
20 there, I may have had it, but I don't -- I
21 don't use it.

22 Q. Do you have a SnapChat
23 account?

24 A. No.

25 Q. Do you have a YouTube

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1 account?

2 A. Yes.

3 Q. When did you create your
4 Facebook account?

5 A. Oh, gosh, 2009 maybe.

6 Q. Do you still use Facebook
7 today?

8 A. Yes, sorry. Yes.

9 Q. How often do you use
10 Facebook today?

11 A. Every day.

12 Q. Can you generally describe
13 how it is that you use Facebook today?

14 MR. RIVERA: Objection to
15 form.

16 THE WITNESS: It's like
17 digital seeing in, right. See
18 what's going on, scroll a little
19 bit.

20 BY MR. KARP:

21 Q. Sorry, are you finished?

22 A. No, yeah.

23 Q. You keep -- you keep up to
24 date on current events?

25 MR. RIVERA: Object to form.

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1 THE WITNESS: At times, until
2 I feel like it -- it becomes
3 programming.

4 BY MR. KARP:

5 Q. And do you use it to keep up
6 with your Facebook friends and what's
7 happening in their lives?

8 MR. RIVERA: Object to form.

9 THE WITNESS: Unconsciously,
10 like, not intentionally. Like, I
11 don't go to Facebook and let me see
12 what John is doing with his family,
13 no.

14 BY MR. KARP:

15 Q. Do you post to Facebook?

16 A. Yeah.

17 Q. How often do you post to
18 Facebook?

19 A. It's not a set, it depends
20 on what I'm feeling. If the Celtics are
21 playing, probably the whole game.

22 Q. Are you from Boston?

23 A. No.

24 Q. Just a Celtics fan?

25 A. Yeah.

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1 Q. On average, how often do you
2 post to Facebook in a week?

3 MR. RIVERA: Object to form.

4 THE WITNESS: I couldn't
5 calculate it. It could be three
6 times a day and then I wouldn't
7 post again for four days, five
8 days, it depends.

9 BY MR. KARP:

10 Q. When did you create your
11 Instagram account?

12 A. I don't recall. And to this
13 day, I don't use it. I think it's linked
14 to Facebook, so if you see something
15 current, it's because I posted on Facebook
16 and it went there.

17 Q. Do you recall ever using it?

18 A. Yeah.

19 Q. During what period of time
20 did you -- do you recall using Instagram?

21 A. It never took traction with
22 me, but I think I created it when I was
23 contemplating doing a motivational speaking
24 business and the whole plan was for me to,
25 like, post motivational words to athletes

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1 and, you know, people. That's why the
2 title is, "Motivated by KZ," but it just
3 never stuck.

4 Q. And do you recall when that
5 was, approximately?

6 A. It would have to be after
7 2015, I think.

8 Q. Today, you don't post to
9 Instagram, correct?

10 A. Directly, no, but Facebook
11 and Instagram are linked, so it sends it
12 there.

13 Q. So sometimes when you post
14 to Facebook, it also posts to your
15 Instagram?

16 MR. RIVERA: Object to form.

17 THE WITNESS: I think the way
18 it's set up, it always does. I'm
19 not sure.

20 BY MR. KARP:

21 Q. Are you aware of whether
22 there are settings that allow you to -- not
23 to post on Instagram and to post to
24 Facebook only?

25 A. Recently, I was shown that

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1 and I just figured leave it as is, you
2 know.

3 Q. When did you create your
4 TikTok account?

5 A. A month ago, two months ago,
6 if that.

7 Q. Why did you create your
8 TikTok account one or two months ago?

9 MR. RIVERA: Object to form.

10 THE WITNESS: You really want
11 to know this?

12 BY MR. KARP:

13 Q. I do.

14 A. I would look on TikTok, you
15 know, and then Trump canceled it and I
16 accidentally deleted the app off my phone,
17 so it was gone. So then it was a, hey,
18 Dad, look at this and I'm, like, I can't, I
19 don't have TikTok. So then when I one day
20 tried to download it back, it was there, so
21 I just downloaded it back. I never posted
22 anything, I don't think, no, never made a
23 TikTok.

24 Q. So your son or daughter
25 would share videos with you on TikTok?

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1 MR. RIVERA: Objection.

2 THE WITNESS: My sons and my
3 wife would do the, hey, look at
4 this.

5 BY MR. KARP:

6 Q. And when you say, "look at
7 this," they would -- you're gesturing they
8 would hold up their phones --

9 A. Yeah.

10 Q. -- and show you a video?

11 A. Yeah, I can't recall too
12 many times my kids -- I don't think my kids
13 ever texted me a link to something on
14 TikTok.

15 Q. And you testified that
16 you've never -- you've never created a
17 TikTok. Let me rephrase that. You've
18 never posted a video to TikTok?

19 A. I don't think I did. I
20 don't -- I don't think I've ever -- if I
21 did, it was, like, once, like, hey, how do
22 you do this, but nothing, like, commentary
23 with editing and stuff, no.

24 Q. In the last one or two
25 months, how many times have you used

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1 TikTok, approximately?

2 MR. RIVERA: Object to form.

3 THE WITNESS: Opening the app
4 to do it, I don't think I have.
5 Intentionally, maybe, like, I
6 tapped it or something, but if
7 you're on, like, Facebook, someone
8 posts a TikTok and you see it that
9 way and it will say watch here or
10 open up TikTok to view. That
11 happens randomly whenever the
12 algorithm decides to pull up
13 somebody's TikTok account.

14 BY MR. KARP:

15 Q. And in those instances, do
16 you follow the link to TikTok to watch it
17 there?

18 A. No.

19 Q. You watch it --

20 A. Right where it's at and
21 then -- because it gets weird, like, you'll
22 watch something and then this algorithm
23 thinks that that's what you're into and you
24 get flooded with all those videos.

25 Q. You said that you have a

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1 LinkedIn?

2 A. Yeah.

3 Q. When did you create your
4 LinkedIn?

5 A. I do not recall, but I'm
6 going to cancel the membership soon.

7 Q. Why is that?

8 A. I don't use it.

9 Q. You said you do not have a
10 SnapChat account?

11 MR. RIVERA: Object to form.

12 THE WITNESS: I don't think
13 so. I think if I tried to start
14 one once, it just looks too weird,
15 it looks kiddie, right, the big
16 yellow thing I don't get, so it's
17 just not a -- you know, it's not a
18 thing.

19 BY MR. KARP:

20 Q. You said you have a Tik --
21 strike that.

22 You said you have a YouTube
23 account?

24 A. Yes.

25 Q. When did you create your

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1 YouTube account?

2 A. Create the actual account or
3 download YouTube?

4 Q. When did you first download
5 YouTube?

6 A. I think when I first heard
7 about it.

8 Q. Can you recall approximately
9 when that was?

10 A. I don't know. How old is
11 YouTube? I don't know.

12 Q. When you say, "download
13 YouTube," you mean download the YouTube app
14 to your phone?

15 A. Yes.

16 Q. Before that, did you watch
17 YouTube videos on your computer?

18 A. However -- when I was first
19 introduced to YouTube, I thought it was a
20 great idea and I would watch stuff.

21 Q. Putting aside having an
22 account -- or strike that.

23 Before you had a YouTube
24 account, did you watch videos on YouTube?

25 A. Yes.

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1 MR. RIVERA: Objection to
2 form.

3 BY MR. KARP:

4 Q. For how long have you been
5 watching videos on YouTube?

6 A. I can't recall, because I
7 don't know how old YouTube is.

8 Q. Can you give me an estimate
9 or approximation?

10 A. It was in the early 2000s I
11 guess. I don't know how old YouTube is.

12 Q. Do you continue to watch
13 videos on YouTube today?

14 A. Yes.

15 Q. How often do you watch
16 videos on YouTube today?

17 A. I can't say, maybe every
18 other day, if not every day. It depends on
19 what I'm looking for or if some of the
20 pages that I follow post an update.

21 Q. Have you ever posted videos
22 to your own YouTube account?

23 A. Embarrassing enough, yes.

24 Q. What makes that
25 embarrassing?

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1 A. I got threw out of a bar.
2 It was Giants versus the Buccaneers, we
3 lost, and the Giants fans tossed me out of
4 the bar and I think that's, like, on
5 YouTube.

6 Q. Have you posted any other
7 videos to YouTube?

8 A. Yes, when I had a podcast,
9 we would post shows up there.

10 Q. What was the name of that
11 podcast?

12 A. The Reality Unscripted Show.

13 Q. When did you have that
14 podcast?

15 A. 2017.

16 Q. Is when you started or that
17 was the only year you had?

18 A. No, that was when I started.

19 Q. And for how long did you
20 have that?

21 A. I believe we stopped 2019
22 maybe, I think. I'm not sure.

23 Q. And recordings of that
24 podcast would be posted to your YouTube
25 account?

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1 A. I believe --

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: I believe, I
5 believe so or maybe not, I'm not
6 sure.

7 BY MR. KARP:

8 Q. And is there anything else
9 you recall posting to your YouTube account?

10 MR. RIVERA: Object to form.

11 THE WITNESS: It's hard to
12 say. There's, like, a video of my
13 son scared of a fly. And I was
14 telling him to pick up the fly and
15 he was crying and crying and crying
16 and crying and crying. And then we
17 realized the fly was dead, it was
18 one of those man raising his son
19 videos where he just was -- his
20 grandmother told him to be scared
21 of bugs and I was kind of like over
22 it. That might be there, I think.
23 I don't know, coaching videos and
24 stuff from track and field. I
25 don't know.

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1 BY MR. KARP:

2 Q. Shifting gears a bit, Dr.
3 Zahir, are you the owner of a company
4 called, "Incredible Media Group"?

5 A. One of, yes.

6 Q. What is Incredible Media
7 Group?

8 A. It was a production company,
9 one of our harebrain ideas.

10 Q. When you say, "it was a
11 production company," do you mean that it's
12 no longer in business?

13 A. No, it's in the internet
14 ether right now. It's nothing.

15 THE STENOGRAPHER: It's what?

16 THE WITNESS: I said it's in
17 the internet ether. It's, like,
18 it's just there.

19 BY MR. KARP:

20 Q. What services did Incredible
21 Media Group provide?

22 A. We produced music.

23 Q. Did you use social media as
24 a means to promote the music you were
25 producing?

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1 MR. RIVERA: Objection to
2 form.

3 THE WITNESS: There was an
4 attempt to advertise our company,
5 but we weren't that successful with
6 it. You know, it didn't take off.

7 BY MR. KARP:

8 Q. Do you recall what social
9 media platform you would have used?

10 MR. RIVERA: Objection to
11 form.

12 THE WITNESS: If it was me, it
13 was Facebook. I mean, there may
14 have been something on Instagram,
15 but that was it.

16 BY MR. KARP:

17 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]

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1 [REDACTED]
2 [REDACTED] [REDACTED] [REDACTED]
3 MR. RIVERA: I'm going to
4 object to this line of questioning.
5 I've allowed some latitude getting
6 his personal use of social media.
7 We're not going to allow this same
8 latitude on his children who are
9 not students of Irvington School
10 District, never attended Irvington
11 School District, and have nothing
12 to do with this litigation
13 whatsoever.

14 MR. KARP: You're aware
15 that -- or this is not directed at
16 you, Dr. Zahir. You have asked our
17 witnesses questions about their
18 children and we have permitted them
19 to answer to an extent and I'm only
20 going to probe the areas that our
21 witnesses have testified about in
22 response to your questions.

23 Are you still going to
24 instruct your witness not to
25 answer?

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1 MR. RIVERA: Yes.

2 MR. KARP: I would at least
3 like to ask a number of questions
4 to make a record and make it clear
5 to me what it is you're instructing
6 him not to answer on and I won't
7 belabor the point and spend too
8 much doing this, but I want to get
9 some clarity on what it is you're
10 instructing not to answer.

11 MS. HENRY: I will also note
12 that other witnesses for Irvington
13 have answered these very narrow
14 questions.

15 BY MR. KARP:

16 Q. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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13 MR. RIVERA: Objection to
14 form. And it's outside the scope.
15 To the extent of getting into his
16 children's use of social media, you
17 don't have to answer these
18 questions. I'm instructing you not
19 to answer these questions.

20 THE WITNESS: Okay.

21 MR. KARP: And just to make
22 sure I understand, what's the basis
23 of the instruction?

24 MR. RIVERA: It's completely
25 outside the scope. His children's

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1 use of social media, the ability to
2 access social media has nothing to
3 do with this litigation. They're
4 not students in Irvington School
5 District. They've never been
6 students in Irvington School
7 District. And completely outside
8 the scope of this litigation.

9 BY MR. KARP:

10 Q. Are you going to follow your
11 counsel's instructions not to answer?

12 A. Yes.

13 MS. HENRY: You do know you
14 asked our witnesses these
15 questions?

16 MR. KARP: Yes, you're aware
17 of that?

18 MR. RIVERA: That's -- I have
19 not asked those questions.

20 MS. HENRY: Your side of the
21 group has asked our witnesses those
22 questions.

23 MR. RIVERA: We can discuss
24 that --

25 MS. SCULLION: He's not on the

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1 stand.

2 MR. RIVERA: -- at another
3 time. The instruction stands.

4 BY MR. KARP:

5 Q. What social media accounts
6 do your children have?

7 MR. RIVERA: Same instruction.

8 BY MR. KARP:

9 Q. Are you going to follow your
10 counsel's advice?

11 A. Yes.

12 Q. Do you limit your children's
13 screen time on their cell phones?

14 MR. RIVERA: Objection to
15 form. You can answer.

16 THE WITNESS: At this point in
17 time, I don't have to, but,
18 initially, we monitored and limited
19 screen time of anything,
20 television, cell phone, iPads, all
21 of it.

22 BY MR. KARP:

23 Q. And did you -- have you ever
24 limited the time of day at which your
25 children can use their cell phones?

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1 MR. RIVERA: I'm going to
2 object to the remainder of this
3 line of questioning, completely
4 outside the scope reviewing his
5 children's use. You don't have to
6 answer these questions.

7 BY MR. KARP:

8 Q. Are you going to follow your
9 counsel's instruction?

10 A. Yes.

11 MR. KARP: With that, I
12 believe that I'm done with my
13 questioning, but I want to make
14 sure that no one else on Zoom or in
15 the room has questions that they
16 want to ask.

17 BY MR. SANDOVAL-BUSHUR:

18 Q. This is Joe Sandoval-Bushur
19 for YouTube and Google. I have just a
20 couple of questions.

21 Hello, Dr. Zahir. Thank you
22 very much for your time today. You said in
23 response to questions just a few minutes
24 ago that you believe that you posted videos
25 to YouTube relating to your coaching of

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1 track and field; is that correct?

2 MR. RIVERA: Objection to
3 form. You can answer.

4 THE WITNESS: It may have been
5 a posting at a track meet or track
6 practice, maybe.

7 BY MR. SANDOVAL-BUSHUR:

8 Q. And those videos would
9 relate to your role as a coach of high
10 school track and field; is that correct?

11 A. I'm not --

12 MR. RIVERA: Object to form.

13 THE WITNESS: I'm not sure of
14 the exact video. I'm just speaking
15 what could possibly be there.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. Have you ever coached track
18 and field at any level other than at K-12
19 level?

20 MR. RIVERA: Object to form.

21 THE WITNESS: Yes.

22 BY MR. SANDOVAL-BUSHUR:

23 Q. Did your -- the videos that
24 you're thinking you may have posted to
25 YouTube relate to your coaching of track at

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1 a K to 12 level or at some different level?

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: I'm not sure.
5 That is why I don't -- I would have
6 to see the video. I'm certain that
7 I didn't post any track videos on
8 YouTube within the last seven,
9 eight -- I mean, after 2015, I
10 don't think I did.

11 BY MR. SANDOVAL-BUSHUR:

12 Q. In addition to posting
13 videos on YouTube, do you also watch videos
14 on YouTube?

15 MR. RIVERA: Objection to
16 form. Asked and answered.

17 THE WITNESS: Yes.

18 BY MR. SANDOVAL-BUSHUR:

19 Q. What types of videos do you
20 watch on YouTube?

21 MR. RIVERA: Objection to
22 form, vague.

23 THE WITNESS: I don't know how
24 to answer that question.

25

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. Do you watch educational
3 videos on YouTube?

4 MR. RIVERA: Objection to
5 form.

6 THE WITNESS: I don't know how
7 to answer that question. What do
8 you mean?

9 BY MR. SANDOVAL-BUSHUR:

10 Q. Do you watch videos on
11 YouTube relating to the news or current
12 events?

13 MR. RIVERA: Objection to
14 form.

15 THE WITNESS: Sometimes, yes.

16 BY MR. SANDOVAL-BUSHUR:

17 Q. Do you watch how-to videos
18 on YouTube, such as videos about how to
19 repair something or do some sort of task?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: Yes, but there
23 are also videos that I don't go
24 looking for that pop up that I may
25 watch also.

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1 BY MR. SANDOVAL-BUSHUR:

2 Q. What do you mean when you
3 say that?

4 A. The way it's designed, if
5 I'm watching one video, if I scroll up, I
6 don't get to choose what that next video
7 that's coming after it. So it may be
8 something that I didn't think about
9 watching, but it's there.

10 Q. And do you ever enjoy
11 watching those videos that pop up in that
12 way?

13 MR. RIVERA: Objection to
14 form.

15 THE WITNESS: Sometimes I do
16 and then sometimes I can be
17 disturbed by some of it and I'll
18 quickly change it. But if you
19 watch it, then even if I'm three
20 seconds, five seconds in, then that
21 might cause another video similar
22 to that to pop up also.

23 MR. SANDOVAL-BUSHUR: I have
24 no further questions. Thank you.

25 MR. KARP: Anyone else on Zoom

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1 have questions?

2 THE WITNESS: There are more
3 people out there?

4 MR. PRICE: Nothing from
5 TikTok, thanks.

6 MR. KARP: Do you have any
7 questions, Carlos?

8 MR. RIVERA: I will have some
9 questions. Let's take a short
10 break and we'll come back and get
11 this wrapped up.

12 MR. KARP: Sounds good.

13 THE VIDEOGRAPHER: The time
14 right now is 5:37 p.m. and we're
15 off the record.

16 - - - - -

17 (A recess was taken at this time.)

18 - - - - -

19 THE VIDEOGRAPHER: The time
20 right now is 5:43 p.m. We're back
21 on the record.

22 BY MR. RIVERA:

23 Q. Good afternoon, Dr. Zahir.
24 My name is Carlos Rivera. I'm with Seeger
25 Weiss and we represent the school district

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1 in this litigation. Thank you very much
2 for taking your time to be with us here
3 today.

4 A. No problem.

5 Q. We spent some time earlier
6 this morning discussing your résumé and
7 your background. Do you remember that line
8 of questioning from counsel?

9 A. Yes.

10 Q. And you received your
11 doctorate; is that correct?

12 A. Yes.

13 Q. And what was that in?

14 A. Educational leadership.

15 Q. And prior to that you
16 received a bachelor's degree in psychology,
17 correct?

18 A. A master's.

19 Q. Master's in psychology?

20 MR. KARP: Object to form.
21 And do we have an understanding
22 that an objection for one is an
23 objection for all?

24 MR. RIVERA: Yes.

25 MR. KARP: Thanks.

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1 BY MR. RIVERA:

2 Q. As part of your coursework
3 pursuing your master's, did you do any
4 study on developmental psychology?

5 MR. KARP: Object to form.

6 THE WITNESS: Yes.

7 BY MR. RIVERA:

8 Q. And what did that entail?

9 A. We studied the developmental
10 process of human beings from the autonomous
11 phase up to adulthood and some of the
12 common challenges or look fors at each
13 stage level.

14 Q. Have you used the knowledge
15 gained throughout -- through that
16 coursework in your role as an educator?

17 MR. KARP: Object to form.

18 THE WITNESS: Yes, it allows
19 me to sometimes formulate an
20 understanding of what an individual
21 may be dealing with. I know that
22 I'm not a licensed psychologist or
23 practicing therapist, but some of
24 the information that we covered, it
25 sticks with you in this profession.

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1 BY MR. RIVERA:

2 Q. And how long have you been
3 an educator?

4 A. Professionally?

5 Q. Yes.

6 A. Since 1998, '99.

7 Q. That's over 25 years of
8 experience, correct?

9 A. Yes.

10 MR. KARP: Object to form.

11 THE WITNESS: Yes.

12 BY MR. RIVERA:

13 Q. And how long have you been
14 an administrator within Irvington School
15 District?

16 A. This is my third year.

17 Q. In those 25 years as an
18 educator, including the years as an
19 administrator, have you regularly observed
20 and interacted with students?

21 MR. KARP: Object to form.

22 THE WITNESS: Every day.

23 BY MR. RIVERA:

24 Q. And in your role as an
25 administrator, have you continued to

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1 regularly observe, monitor, and interact
2 with your students?

3 MR. KARP: Object to form.

4 THE WITNESS: Yes, whether I'm
5 an administrator or not, in this
6 profession, your interactions are
7 things that come with the job.

8 It's -- it's ironically and I'm --

9 I guess this is like a revelation,

10 me saying this, but, ironically,

11 it's one of the reasons why I

12 didn't pursue therapy because of

13 this thing called transference of

14 emotion. During my years in

15 graduate school and during the

16 practicum hours, prior to the

17 5,000, we would do therapy. We

18 would -- like, I was located at the

19 Family Service Bureau in Newark and

20 the impact, sitting in front of

21 someone and having them talk to

22 you, there's this thing called

23 transference of emotion that you

24 would then take home and you didn't

25 have the proper way to get rid of

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1 that or flush, it would affect it.
2 So the irony is I walked away from
3 therapy because I did not like how
4 that felt.

5 But when I came into
6 education, it -- the
7 interactions, it may have been
8 threefold, fivefold at times, you
9 know, and I learned to deal with
10 it, I learned to deal with it,
11 but it's definitely, you know,
12 the interactions are, they're a
13 huge part of the job.

14 BY MR. RIVERA:

15 Q. In your role as an
16 administrator within Irvington School
17 District, have you observed the students'
18 use of social media?

19 MR. KARP: Object to form.

20 THE WITNESS: So observing
21 them use it would be -- it's hard
22 to see them doing it unless I walk
23 up on them when they're using their
24 phone and not supposed to or if
25 they're in the cafeteria and

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1 they're not supposed to be on
2 social media, I've seen the results
3 of them using it. So I think
4 that's a difference in what you're
5 asking me. In realtime, that's not
6 a common thing to see, but the
7 aftermath or the results of them
8 using social media, yes.

9 BY MR. RIVERA:

10 Q. How do you describe that
11 aftermath?

12 A. Well --

13 MR. KARP: Object to form.

14 THE WITNESS: Well, almost all
15 of our discipline issues are
16 affected by social media one way or
17 the other.

18 For example, it could be
19 something as simple as a kid is
20 in class, a kid doesn't pass a
21 test or a kid does something in
22 the class and the teacher says
23 something to the kid and the kids
24 laugh, right, or whatever the
25 case may be.

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1 There are times when someone
2 would then go on social media and
3 talk about this kid and then all
4 the kids are now invited into a
5 group chat and then they start
6 laughing at what happened in the
7 classroom. And then the kid
8 hears about it, and there's a
9 fight. And I'll get the report
10 that there's a fight because they
11 were laughing at me about
12 something that happened in
13 school. I mean, that's a mild
14 case.

15 You know, there are
16 situations where a kid was dared
17 to walk into the brook behind the
18 school without his clothes. They
19 said, I dare you to take your
20 clothes off and go into the
21 brook. This is not during school
22 time. And for \$10, the kid took
23 the dare. What he did not know
24 was when he took his clothes off,
25 they recorded him. So now when

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1 he comes out of the brook to get
2 his clothes, they take his
3 clothes and run and they have a
4 video of this kid running down
5 Chancellor Avenue naked and they
6 posted it. So now this kid
7 doesn't want to come to school.
8 Their parents are disgusted,
9 whatever, you know what I'm
10 saying, and now we get the
11 blowback of something that was
12 posted and then the comments that
13 flooded the post affect the
14 child.

15 BY MR. RIVERA:

16 Q. As an administrator, do you
17 have an understanding of what motivates
18 your students to post to social media?

19 MR. KARP: Object to form.

20 THE WITNESS: I believe I do.

21 I may not know all the motivations,
22 but I know some of them. It's at
23 times, it's -- it could be
24 considered a popularity thing. You
25 know, there's a reward to be the

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1 first to post, right? It's like
2 eyewitness news, the first news van
3 that shows up to an event, there's
4 this thing where I posted it, come
5 on my page, bring traffic to my
6 page to see what happened.

7 Sometimes it's just to be
8 able to say that you were there,
9 you know, you are sharing an
10 experience, although it might be
11 someone's downfall, it makes you
12 popular.

13 You may want social media
14 notoriety. You may want to
15 increase your friends. You may
16 just want to do it because of the
17 likes, you know, it's -- there's
18 a drive there to be -- to get
19 approval or to be popular or to
20 be known.

21 Or sometimes to just really
22 hurt someone, because they don't
23 like the person and they want to
24 do something to hurt the kid.
25

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1 BY MR. RIVERA:

2 Q. When you say sometimes that
3 they just do it for the likes, what do you
4 mean by that?

5 A. Well, on social media, they
6 have -- some social medias have, like, a
7 like button or a heart, you know, and you
8 click the heart that means you like it, or
9 I think on Facebook there's, like, a thumbs
10 up if you like it.

11 Q. In your role as an
12 administrator within Irvington School
13 District, have you observed that your
14 students' use of social media has had a
15 negative impact on their life?

16 MR. KARP: Object to form.

17 THE WITNESS: It does, but
18 it's not in the way that someone
19 who is not in education might see
20 on the surface, right? Because if
21 you say social media is causing
22 this kid not to do math, it's not
23 that point to point. It's
24 something on social media is
25 causing this kid to not be able to

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1 focus in school, because they may
2 have been ridiculed. They may be
3 embarrassed. They may not be able
4 to sit in the classroom knowing
5 that everyone is talking about
6 them.

7 I can give you an example,
8 when I was in East Orange, there
9 was an individual -- and this is
10 terrible, right, so I just want
11 to be mindful that there are some
12 things I'm probably not going to
13 mention, because I think it's
14 disgusting whether this camera is
15 on or not. There some things
16 that are just disgusting. This
17 one is disgusting, but I need to
18 give you an example. There was a
19 kid who had a sexual encounter
20 with a young lady and for
21 whatever reason, he decided to,
22 in class, AirDrop the video of
23 her doing things to him. And the
24 teacher described it as there
25 were just, like, alarms, boop,

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1 boop, boop, boop, and then
2 everyone is now watching this
3 video. And then someone who he
4 AirDropped it to posted it. I
5 don't know how a young lady
6 recovers from that, right? Like,
7 I don't know how she recovers
8 from something like that. And
9 his rhyme or reason for wanting
10 to do it was to hurt her, but
11 then the rhyme or reason for the
12 person who decided to post it,
13 why are we sharing this outside
14 of the school, let alone sharing
15 it, period. There's a place to
16 share it, and they share it, and
17 then people flood to it. And
18 then once it's there, people can
19 take screen records and they can
20 do whatever they want. They can
21 audit it -- they can edit it,
22 throw music behind it. But these
23 are just -- it's just an example
24 of me seeing how that affected
25 that student and how does that

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1 student become whole and return
2 to school and focus on learning?

3 BY MR. RIVERA:

4 Q. Have the effects of social
5 media use by your students had a negative
6 impact on the overall learning environment
7 in your school?

8 MR. KARP: Object to form.

9 THE WITNESS: Once again, yes,
10 because it could turn your day
11 upside down. See, when you ask
12 this question, the mistake is that
13 you look at it from a point to
14 point, right. You can't say does
15 fire make things hot? Yes, it
16 heats it up, right? But when you
17 say something, how did the social
18 media affect the learning, the
19 potential to learn or how kids
20 learn in a school day, you may not
21 see the point to point, because the
22 kids aren't supposed to be on their
23 phones in school. So if they're
24 not on their phones in school, how
25 is that stopping them? It's

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1 because what happens outside the
2 school, what happens before school,
3 what happens after school can turn
4 the school into a water cooler, the
5 most negative water cooler you can
6 think of, because now everybody is
7 here and then it turns into a
8 fight. It turns into a mob of kids
9 who want to run down the hall to
10 watch the fight. How does a
11 teacher now stop that, get the kids
12 back into their seats, and get them
13 to now focus?

14 Like, these are the type of
15 things that happen and it's
16 because of something that they
17 saw, read, posted, or commented,
18 not even during the school day.

19 BY MR. RIVERA:

20 Q. Have those occurrences
21 impacted your or your other administrators
22 in your building's ability to do your --
23 your job as described in your job
24 description?

25 MR. KARP: Object to form.

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1 THE WITNESS: On a daily
2 basis.

3 BY MR. RIVERA:

4 Q. In what way?

5 A. I can give you yesterday.
6 Something as simple as yesterday, I had to
7 do my third round observations and I needed
8 to get as many of them done as possible
9 before I'm out, and my schedule was to try
10 and knock out as many as possible, but
11 because of a situation involving social
12 media, I had to now do conflict resolution.

13 A young lady made a comment
14 about another young lady's hair. The young
15 lady who heard the comment decided to be
16 messy and then go in the group chat and
17 post this comment about the girl's hair.
18 The kids who read it in the group chat said
19 in the group chat that they were going to
20 beat her up. That same young lady went
21 back and told the girl, you need to be
22 careful, because I heard they want to fight
23 you. So now that girl who made the
24 original comment about the girl is now
25 telling her friends that they're trying to

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1 jump her after school. So then it becomes
2 this plan to meet up in the locker room to
3 fight and I get wind of it, so now I have
4 to stop what I'm doing to address it to
5 avoid a fight and this is something that
6 happens on a daily basis.

7 Q. You mentioned -- I'm sorry.
8 All right. You mentioned they were being
9 messy in the group chat, on a post in the
10 group chat, is that a group chat on
11 Instagram?

12 MR. KARP: Object to form,
13 leading.

14 THE WITNESS: This particular
15 group chat was Instagram, this
16 particular one. Being messy is
17 they intentionally stir up
18 problems. They'll be a group chat
19 call, right, where they may do,
20 like, a video call, I'm not sure
21 which platform this is, but they'll
22 do a video call and while they're
23 talking about an individual,
24 someone will tag the girl that's
25 being talked about and then she

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1 joins the call, not knowing what
2 she's walking into, and then it
3 becomes, well, she's here right
4 now, say it to her face and powder
5 keg.

6 BY MR. RIVERA:

7 Q. Those chat features and
8 video features that you just described,
9 have they impacted your students'
10 interactions with their learning
11 environment?

12 MR. KARP: Object to form.

13 THE WITNESS: Yes, and once
14 again, it's because if the
15 intention is for kids to come to
16 school and be in an environment
17 where they are safe to learn and
18 you create a safe environment here,
19 but you now have to ward off the
20 results of what happened away from
21 here, you now have to alter what
22 your intention is here to keep them
23 safe here. And it has a direct
24 effect on them.

25

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1 BY MR. RIVERA:

2 Q. How many times have you as
3 the principal of Union Avenue Middle School
4 addressed disciplinary issues that relate
5 to social media?

6 MR. KARP: Object to form.

7 THE WITNESS: Too many to
8 count. I would say, I mean not
9 to -- my running joke is social
10 media is the high fructose corn
11 syrup of all problems in school.
12 It's in everything. At some point,
13 it either starts on social media,
14 happens before and then is
15 mentioned on social media, starts,
16 happens, and then it's posted on
17 social media. But one way or
18 another, it finds its way onto a
19 platform where everyone who is not
20 there can now witness it. And it
21 becomes a huge, huge problem.

22 Last week, we had a young
23 man -- we had a kid who wanted to
24 fight another kid. So I'll give
25 you an example of how it didn't

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1 start on social media. We had a
2 kid who wanted to fight another
3 kid because of something he was
4 told was said about his dead
5 brother. Whether the kid
6 actually said it or not is not
7 even the point. He heard that
8 someone said something about his
9 dead brother. He wanted to
10 confront the kid. The long walk
11 home, he's constantly trying to
12 fight this kid. The kid is being
13 shielded by a couple of other
14 young ladies who are older than
15 them. These kids are sixth
16 graders, the girls are eighth
17 graders and they're saying, no,
18 we're not letting you fight.
19 They go all the way up Chancellor
20 Avenue with the kid trying to
21 fight the other kid. They
22 prevent them from fighting, but
23 the kid who wanted to fight them
24 got on his phone and called some
25 of his friends, who he say are

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1 gang members, I can't say they
2 are or not. So then the other
3 kid got on the phone and called
4 some of his friends. Now, some
5 kids pull up on a bike and the
6 kid who was the aggressor now has
7 to contend with those three guys
8 on a bike. They rob them. And,
9 mind you, all this is happening
10 on the street. The kid who gets
11 robbed goes on Instagram and he
12 posts a video of a gun and says
13 to the kid who called them, your
14 words and those girls won't save
15 you. And then he comes to school
16 the next day. So now, all the
17 kids saw the post on Instagram of
18 him saying that his words and
19 those girls won't save him and
20 the picture of -- and a little
21 video of a gun, now my building
22 is in an uproar because kids are
23 now calling their parents and
24 running down to the office saying
25 that this individual says he's

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1 going to shoot up the school.
2 And we're testing. We're in the
3 midst of NJSLA testing and I have
4 to worry about how I deal with
5 this and not blow the test
6 scores, because then that's going
7 to be on our school report card
8 next year.

9 BY MR. RIVERA:

10 Q. Is that uproar you just
11 described conducive to a good testing
12 environment for your students?

13 MR. KARP: Object to form.

14 THE WITNESS: No. No, it's
15 not.

16 BY MR. RIVERA:

17 Q. Earlier you were asked some
18 questions relating to chronic absenteeism.
19 Do you remember --

20 A. Yes.

21 Q. -- that line of questioning?

22 A. Yes.

23 Q. In your experience, have you
24 observed social media to play any role in
25 the issue of chronic absenteeism?

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1 MR. KARP: Object to form.

2 THE WITNESS: So the issue,
3 the issue with chronic absenteeism
4 is chronic absenteeism is a term
5 that's given to percentage of days
6 absent based on days offered to
7 attend.

8 So answering that question
9 about chronic absenteeism is
10 really -- it's not a question you
11 can answer that way, but does
12 social media have an effect on
13 kids being absent, yes. The
14 difference is clear. If a kid is
15 here in September, right, if a
16 kid misses more than one day in
17 September, that kid is
18 chronically absent. But if in
19 October, that kid misses no days,
20 that kid is no longer chronically
21 absent. You are afforded
22 10 percent of the school year
23 before you're considered
24 chronically absent.

25 So the struggle with that is

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1 it's not about chronic
2 absenteeism, it's about
3 absenteeism or school avoidance.
4 And kids avoid school when they
5 feel that if they come here,
6 they're going to be ridiculed
7 because of something that someone
8 posted.

9 We had a situation last --
10 two weeks ago where a girl is
11 dating the ex-boyfriend of
12 another girl and she decided to
13 share her love and put his face
14 on her screensaver. And kids saw
15 the face of this kid on her
16 screensaver. Word got back to
17 the other girl that this girl is
18 walking around with her
19 ex-boyfriend's face on a
20 screensaver. Her and her sister
21 jumped this girl on a corner.
22 Thank God the security guards got
23 there in time, they bring her
24 back in the building bleeding,
25 and what do I see by the end of

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1 the night, the video.

2 So now this girl doesn't
3 want to come to school. What do
4 you say to your kid when, one,
5 you see a video of your child
6 being demolished, bleeding, and
7 then your kid doesn't want to go
8 to school. Do you say, well, no,
9 you're going to school and face
10 the music. You know what, take a
11 couple of days off. Boop, that
12 kid is on the chronic absenteeism
13 list now. That kid is now on the
14 school avoidance list, but it's
15 not because the kid is sick.
16 It's not because the kid doesn't
17 want to come to school. It's not
18 because the kid doesn't value
19 education. It's because the kid
20 can't just come to school and be
21 a student. The kid now has to
22 face the ridicule of not being
23 strong enough to fight two girls
24 at once.

25

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1 BY MR. RIVERA:

2 Q. And when you say you saw a
3 video, was that on social media?

4 A. Yes.

5 Q. Where?

6 A. Instagram.

7 Q. Dr. Zahir, I want to shift
8 gears a little bit to a document we were
9 looking at earlier today. It was marked as
10 Exhibit 3 to the deposition, the parent
11 teacher and handbook. Can you get that in
12 front of you?

13 MR. KARP: Let me get my copy.

14 Oh, sorry, I have a copy of it.

15 Thank you.

16 BY MR. RIVERA:

17 Q. I just want to orient you to
18 page 10 of the document. Do you recall
19 being asked some questions about this
20 section on the bottom half of the page
21 related to guidance?

22 A. Yes.

23 Q. What is your understanding
24 of how your guidance counselors address the
25 issues of social media with students?

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1 MR. KARP: Object to form.

2 THE WITNESS: My guidance
3 counselors -- my guidance
4 counselors are charged with the
5 responsibility of providing
6 auxiliary support to students
7 outside of mainstream instruction
8 and a lot of times what affects the
9 students are bullying, lack of
10 school spirit, academic challenges,
11 things of that nature, and,
12 naturally, social media.

13 My guidance counselors
14 throughout the year, more often
15 than not, have to have
16 conversations with students about
17 how to avoid problems on social
18 media, how to -- how to
19 effectively use social media.
20 How to not use social media. How
21 to not get pulled into problems.
22 Because my guidance counselors, a
23 lot of times, are resources for
24 me when there are problems in the
25 building that I can't get to it

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1 or my building disciplinarian
2 can't get to it, I may send a kid
3 to guidance. And the guidance
4 counselor sometimes may have a
5 roundtable with kids and talk
6 about what happened and their
7 actions and why they shouldn't
8 use social media this way, why
9 they shouldn't be on it for this
10 reason or that reason.

11 We provide lessons, and I
12 say the word, "lessons," simply
13 because if I provide instruction
14 and then I can assess your
15 understanding of the instruction,
16 that constitutes as a lesson,
17 whether it's formal or informal.

18 I just had a situation with
19 a guidance counselor and myself
20 where we had to educate these
21 girls on how to not -- or the
22 pitfalls of social media. And
23 what not to post and what not to
24 respond to and if someone says
25 your name doesn't mean you have

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1 to now put a comment or request
2 to say something.

3 So, my guidance counselors,
4 I mean they do the yeoman's job
5 of guiding the students to help
6 them avoid or deal with or even
7 process.

8 We've got a young lady right
9 now who is pregnant. This is how
10 important my guidance counselors
11 are in this matter. We've got a
12 young lady who is pregnant. I
13 actually have two. Some kid
14 decided to go on social media and
15 talk about this girl who is
16 pregnant. She's 12 and you're
17 posting pregnant pictures or
18 making comments and all types of
19 ignorance. And the young lady
20 needs someone to talk to.

21 My guidance counselors meet
22 with this young lady, allow the
23 young lady to have lunch with
24 her, to avoid going into the
25 cafeteria, to avoid going into

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1 the classroom. Sometimes, we
2 have kids in the side room over
3 there where we bring Chromebooks
4 out and say just do your work
5 down here. We know you're
6 dealing with something, we don't
7 want you to go back into the
8 classroom right now.

9 So it's, you know, this -- a
10 lot of this really troubles me,
11 because I think that sometimes
12 we're having a conversation about
13 something that to me is so
14 obvious. It's so obviously a
15 problem that to sit here and
16 attempt to debate or discuss that
17 is not -- I think is
18 irresponsible. I just think it's
19 irresponsible.

20 BY MR. RIVERA:

21 Q. In your role as an
22 administrator, have you -- have you seen
23 that the ability to comment on posts has
24 exacerbated instances of bullying or
25 harassment in your school?

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1 MR. KARP: Object to form.

2 THE WITNESS: Yes.

3 MR. KARP: Sorry, object to
4 form, leading, and numerous other
5 grounds.

6 THE WITNESS: Yes. And I
7 learned a long time ago that when
8 there's a problem if you look at
9 the problem like a fire, you have
10 three options. You can assess the
11 fire, let it burn out on its own.
12 You can throw water on it, put it
13 out right away, or you can put gas
14 on it and make it worse. The
15 comment is the gasoline. Even if
16 the comment is a positive one
17 saying, hey, everybody, I don't
18 think this is cool that you all are
19 bullying her. Now the swarm goes
20 to that person. And when it goes
21 to that person, depending on what
22 that person's profile picture looks
23 like or who they are, people go on,
24 they click on their profile. They
25 screenshot their profile. They put

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1 messages, nasty, little wicked
2 comments about them and they flood
3 the timeline or that thread with
4 nasty comments about the person who
5 was trying to do the right thing.
6 And that just allows -- it allows
7 this moment, this content to now
8 live.

9 And then in some cases, you
10 have anniversaries, which is
11 wicked. Imagine two years ago,
12 there was a post put up about
13 someone, on Facebook, it might
14 say hey, two years ago. And
15 it's, like, why are you
16 regurgitating this. Because it
17 was so much traffic at the time,
18 it was one of your hottest posts.
19 It was one of your most volatile
20 posts. You had 450 comments or
21 450 likes. I don't -- I don't
22 understand the nature of this
23 debate.

24 BY MR. RIVERA:

25 Q. Has the ability for students

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1 to tag other students in the comments made
2 these situations of harassment worse?

3 MR. KARP: Object to form.

4 THE WITNESS: Yes, you can add
5 your two cents with your thumbs.
6 You don't even have to be there.

7 There have been -- there
8 have been -- I'm trying to find
9 the social term, you know how
10 something happens and then
11 there's a new term that now
12 everyone says, right? Like,
13 woke, right, now woke is a thing.
14 Or I remember back in the day, if
15 something was fat, that means it
16 was dope. And if it means it was
17 dope, that means it was good,
18 right?

19 Sharkeisha is a thing,
20 because some girl named
21 Sharkeisha on social media beat
22 the brakes off some other girl.
23 And the girl, her friends say,
24 Sharkeisha know. Do you know now
25 that when kids fight, the people

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1 watch and go, Sharkeisha know.
2 Where did they learn that from?
3 Social media.

4 BY MR. RIVERA:

5 Q. Have you observed your
6 students' use of social media to have a
7 negative impact on your students' mental
8 health?

9 MR. KARP: Object to form.

10 THE WITNESS: I'm funny about
11 the mental health term. I want to
12 be clear that I will never assume
13 to be a mental health expert. So
14 there are a million things that may
15 affect you, but I listen to what
16 you say. When you tell me that
17 this is affecting your mental
18 health, I take you for your word.
19 So to answer the question is yes,
20 because the kids say it.

21 Remember, this is a
22 generation of kids that don't
23 mind telling you that something
24 is affecting their mental health.
25 They have been trained to

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1 express, I need a mental break,
2 like, kids will say that, I need
3 a recovery day. I need a mental
4 health day. We didn't have
5 mental health days growing up.
6 These kids will say, I need a
7 mental health day.

8 So when they come to me and
9 say I can't -- Dr. Zahir, I can't
10 focus or they're crying
11 because -- when a girl is scared
12 to come to school because she got
13 black girl hair, right? She got
14 black girl hair. I'm talking
15 thick, beautiful hair, and it
16 just don't style the way they
17 show on the videos. Or it's not
18 long enough if she shakes her
19 head, it waves in the wind. And
20 the kids comment about her hair
21 or the kid will take a picture of
22 her walking home after school and
23 then edit the picture and post
24 it.

25 This girl don't want to come

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1 to school. And we have a no hats
2 policy. We have a no hood
3 policy. So what do you tell this
4 girl when she's walking around,
5 creeping around the corners with
6 a scarf on or with a hood on and
7 when you get to the root of it,
8 it's because some kid took a
9 picture of her and posted it and
10 was laughing and taunting her
11 hair. And she's not even in the
12 group chat. She doesn't even
13 know why they're doing that to
14 her. So when that girl says, I
15 can't, I don't want to be here,
16 it affects the mental health.

17 BY MR. RIVERA:

18 Q. I just want to go over my
19 notes. I think I might have reached the
20 end of my questions, so just give me a
21 couple of minutes here.

22 THE VIDEOGRAPHER: The time
23 right now is --

24 MR. KARP: Oh, sorry, we're
25 still on the record, right?

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1 MR. RIVERA: Yeah.

2 THE VIDEOGRAPHER: Oh, I'm
3 sorry.

4 MR. RIVERA: All right. Dr.
5 Zahir, I don't have any additional
6 questions for you. Thank you very
7 much for your time today.

8 MR. KARP: We may have some
9 additional questions. I'm going to
10 take a brief break.

11 THE VIDEOGRAPHER: The time
12 right now is 6:18 p.m. We are off
13 the record.

14 - - - - -

15 (A recess was taken at this time.)

16 - - - - -

17 THE VIDEOGRAPHER: The time
18 right now is 6:28 p.m. We're back
19 on the record.

20 BY MR. KARP:

21 Q. Dr. Zahir, welcome back, I
22 just want to follow up on some of the
23 questions that were asked by your counsel.

24 A. Sure.

25 Q. You discussed with your

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1 counsel the -- that there was an effect
2 that social media has had on the learning
3 environment at Irvington Public Schools?

4 A. Yes.

5 Q. What studies would you point
6 to or are you relying on for the fact that
7 social media has had an effect on the
8 learning environment at Irvington Public
9 Schools?

10 MR. RIVERA: Objection to
11 form.

12 THE WITNESS: What studies am
13 I referring to?

14 MR. KARP: Yes.

15 THE WITNESS: I'm living it.

16 BY MR. KARP:

17 Q. Are you relying on any
18 studies or literature that links social
19 media to the learning environment?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: With all due
23 respect, who is the expert on
24 gorillas, the gorilla or the person
25 who studies gorillas?

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1 BY MR. KARP:

2 Q. And with all due respect, I
3 am asking you questions and if you want to
4 get into this with your counsel, you may.

5 MS. SCULLION: Wait, I'm
6 sorry, was the witness done his --
7 finished with his answer?

8 MR. KARP: Please don't -- are
9 you defending this deposition?

10 MS. SCULLION: I apologize.

11 MR. KARP: Thank you.

12 MS. SCULLION: Mr. Rivera can
13 handle it.

14 MR. RIVERA: He was in the
15 middle of a response, if you allow
16 him to complete his response.

17 MR. KARP: Sure.

18 THE WITNESS: And I say that
19 respectfully, because my answer to
20 the question was, I'm living this.
21 Someone would have -- someone needs
22 to study us to see what we deal
23 with every day. I don't need to
24 study what I live. So, no, I don't
25 rely on a study to give meaning and

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1 understanding and -- or meaning and
2 understanding the effects of what I
3 live and see.

4 BY MR. KARP:

5 Q. Fair to say that you're not
6 relying on any studies for your testimony
7 that social media has had a negative impact
8 on the learning environment at Irvington
9 Public Schools?

10 MR. RIVERA: Object to form.

11 THE WITNESS: I don't
12 understand the question, sir.

13 BY MR. KARP:

14 Q. Can you point me to any
15 studies or any literature that show a
16 negative effect of social media on the
17 learning environment at Irvington Public
18 Schools?

19 MR. RIVERA: Objection to
20 form. Asked and answered.

21 THE WITNESS: This is a
22 natural phenomenon that needs to be
23 studied.

24 BY MR. KARP:

25 Q. But you have not conducted

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1 that study?

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: I'm living it.

5 BY MR. KARP:

6 Q. You said that this needs to
7 be studied?

8 A. It needs to be studied, but
9 my -- my testimony, my life, what I'm
10 dealing with, I'm living it. I need to
11 study -- to conduct a study on what I'm
12 experiencing? I don't understand.

13 Q. You can either point to
14 studies or not. And is it your testimony
15 that you cannot point to studies linking
16 social media to a negative impact on the
17 learning environment at Irvington Public
18 Schools?

19 MR. RIVERA: Objection to
20 form. Asked and answered a couple
21 of times already. His answer is
22 his answer.

23 MR. KARP: You may answer.

24 MS. HENRY: He hasn't answered
25 the question.

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1 MS. SCULLION: I'm sorry, how
2 many people are taking the
3 deposition?

4 MS. HENRY: I mean, you spoke
5 on two events.

6 MS. SCULLION: I was told not
7 to.

8 MR. KARP: You may answer.

9 MR. RIVERA: You can repeat
10 your answer.

11 MR. KARP: Are you coaching
12 the witness?

13 THE WITNESS: I've answered
14 the question multiple times. I
15 don't know how to provide another
16 answer than that.

17 BY MR. KARP:

18 Q. Can you point me to any
19 studies to substantiate that social media
20 has had a negative effect on discipline at
21 Irvington Public Schools?

22 MR. RIVERA: Objection to
23 form.

24 THE WITNESS: I am the study.
25

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1 BY MR. KARP:

2 Q. Can you point to any studies
3 or data to substantiate that specific
4 features on social media platforms have had
5 a negative impact on the learning
6 environment at Irvington Public Schools?

7 A. Yes.

8 MR. RIVERA: Objection to
9 form.

10 BY MR. KARP:

11 Q. What studies can you point
12 to?

13 A. Myself, my life.

14 Q. Can you point to any studies
15 or data to support your contention that
16 social media -- that specific features on
17 social media have had a negative effect on
18 discipline at Irvington Public Schools?

19 MR. RIVERA: Objection to
20 form.

21 THE WITNESS: Yes.

22 BY MR. KARP:

23 Q. What studies?

24 A. My life.

25 MR. RIVERA: Objection to

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1 form.

2 THE WITNESS: My experiences.

3 BY MR. KARP:

4 Q. You testified earlier about
5 the relationship between social media and
6 how kids learn during the school day, do
7 you recall?

8 A. Yes.

9 Q. Okay. Can you point me to
10 any studies or data to support your
11 contention that social media has had a
12 negative impact on how kids learn during
13 the school day?

14 MR. RIVERA: Objection to
15 form.

16 THE WITNESS: The same study
17 as before.

18 BY MR. KARP:

19 Q. And that would be?

20 A. My life, my experiences.

21 Q. Can you point to any studies
22 or data to substantiate your contention
23 that specific social media features have
24 had a negative impact on how kids learn --
25 how IPS students learn during the school

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1 day?

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: I don't
5 understand that question.

6 BY MR. KARP:

7 Q. Can you point to any studies
8 or data to support your contention that
9 specific features of social media platforms
10 have had a negative impact on how kids
11 learn during the school day?

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: You're phrasing
15 the question as to how they learn,
16 but not can they learn. Social
17 media gets in the way of them
18 learning. It doesn't -- I don't
19 understand the connection of how
20 they learn.

21 BY MR. KARP:

22 Q. Do you have any -- can you
23 point me to any studies or data to support
24 what I understand to be your testimony that
25 specific features of social media platforms

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1 have a negative effect on how students can
2 learn?

3 MR. RIVERA: Objection to
4 form.

5 THE WITNESS: I don't
6 understand the logic of your --
7 respectfully, I don't understand
8 the logic of the question. How a
9 kid learns, you have auditory
10 learners. You have kinesthetic
11 learners. These are different ways
12 that kids are predisposed to
13 learning. That's not addressing
14 them having a fair and safe
15 opportunity to learn. We're
16 talking about the opportunity to
17 learn, not the manner in which they
18 learn.

19 BY MR. KARP:

20 Q. Dr. Zahir, in response to
21 questions from your counsel, you mentioned
22 a number of disciplinary incidents, do you
23 recall?

24 A. Yes.

25 Q. Okay. Where would I go to

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1 get the number of disciplinary actions that
2 have been taken with respect to Union
3 Avenue Middle School students that involve
4 social media?

5 MR. RIVERA: Object to form.

6 THE WITNESS: So, and I
7 mentioned this earlier, discipline
8 that involves social media is not
9 an identified category where we are
10 instructed to tally.

11 BY MR. KARP:

12 Q. You could tally it if you
13 wanted to, correct?

14 MR. RIVERA: Objection, form.

15 THE WITNESS: If I wanted to
16 tally it, I could.

17 BY MR. KARP:

18 Q. If you wanted Union Avenue
19 Middle School to track how many
20 disciplinary actions were taken relating to
21 social media, that's something you could
22 do, correct?

23 MR. RIVERA: Objection to
24 form.

25 THE WITNESS: If I was

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1 comfortable with a -- bless you --
2 if I was comfortable with being
3 within 5 to 7 percent, I would just
4 go 90 percent of them are. I
5 would -- I think that I would do a
6 waste -- I would waste a lot of
7 time tallying them, when based on
8 my experience, which is what I'm
9 saying, in almost all of them,
10 something involving social media,
11 somehow it involves social media.

12 BY MR. KARP:

13 Q. But that's not something
14 that you track?

15 MR. RIVERA: Objection to
16 form.

17 THE WITNESS: I've already
18 answered that, sir.

19 BY MR. KARP:

20 Q. If I wanted to look at the
21 data to show that 90 percent or more of
22 these incidents involve social media in
23 some way, where would I look?

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: I've already
2 answered that, sir.

3 BY MR. KARP:

4 Q. Are you done with your
5 answer?

6 A. I'm -- I am clear that
7 everyone at this table has a job to do.
8 And I am not trying to complicate anyone's
9 job. It's just difficult for me to pretend
10 that I'm not answering your question. I've
11 answered your question. We are not
12 instructed to tally that. If I chose to
13 tally that, I could, and in my professional
14 opinion, it would be a waste of time
15 tallying it unless someone wants that. For
16 me, I know that as long as I don't mind
17 being 5 to 7 percent off on the exact
18 number, I could estimate with a great,
19 strong hypothesis that 90 percent of them
20 are going to involve social media one way
21 or the other.

22 Q. You're aware that the school
23 district in this case has alleged that
24 social media has caused a mental health
25 crisis among students, correct?

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1 A. I am, sir.

2 MR. RIVERA: Objection to
3 form.

4 BY MR. KARP:

5 Q. And where did you get that
6 understanding?

7 A. Say it again.

8 Q. Where did you get that
9 understanding of the allegations?

10 MR. RIVERA: Objection to form
11 to the extent it involves
12 conversations with your attorneys.

13 MR. KARP: You can answer the
14 question.

15 THE WITNESS: Where did I get
16 the understanding that the school
17 district has alleged, I don't
18 understand. That's why we're here,
19 correct?

20 BY MR. KARP:

21 Q. And you're telling me today
22 that over 90 percent of the disciplinary
23 actions that have been taken at Union
24 Avenue Middle School involve social media,
25 correct?

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1 MR. RIVERA: Objection to
2 form.

3 THE WITNESS: In one way or
4 another, as I said, it's either
5 going to start with something on
6 social media, it's going to start
7 without social media and then be
8 shared on social media, or it's
9 going to start, then something is
10 going to happen and then that is
11 going to be reported or commented
12 about on social media. But one way
13 or another, most of all of our
14 discipline problems, major ones,
15 that affect kids wanting to come to
16 school and all these other things,
17 they find their way to social
18 media.

19 BY MR. KARP:

20 Q. And where is that
21 documented?

22 MR. RIVERA: Objection to
23 form.

24 THE WITNESS: I answered that
25 already.

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1 BY MR. KARP:

2 Q. I don't recall that answer.
3 What's the answer to that question?

4 A. It's in the -- I don't know
5 what that's called, but it's --

6 Q. Is your answer that it's not
7 documented?

8 MR. RIVERA: Objection to
9 form.

10 THE WITNESS: I answered, we
11 are not required nor requested to
12 keep track of everything that
13 involves social media.

14 In the event that a kid
15 records someone and does
16 something with it, and the
17 suspension says, improper use of
18 cell phone, it will say improper
19 use of cell phone, improper use
20 of internet or whatever, those
21 things are the overarching
22 category that that disciplinary
23 action would fall under.

24 But there are things that
25 happen so often that may not

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1 result in a suspension, but they
2 still -- they still are affected
3 or enticed or whatever by social
4 media.

5 BY MR. KARP:

6 Q. So the school tracks
7 improper use of cell phones --

8 MR. RIVERA: Objection to
9 form.

10 MR. KARP: -- as a specific
11 type of disciplinary action?

12 MR. RIVERA: Objection to
13 form.

14 THE WITNESS: That is one --

15 MR. RIVERA: Outside the
16 scope.

17 THE WITNESS: -- of the
18 categories. That is one of the
19 drop-down categories, improper use
20 of technology.

21 BY MR. KARP:

22 Q. And that's where we would
23 look to find incidents relating to social
24 media?

25 MR. RIVERA: Objection to

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1 form.

2 THE WITNESS: You can, but
3 that's not where every incident
4 involving social media would be
5 stored, because, again, we are not
6 required nor requested to keep a
7 score of everything involving
8 social media.

9 BY MR. KARP:

10 Q. Who decides what's in that
11 drop-down menu of different types of
12 disciplinary actions?

13 A. That's software --

14 MR. RIVERA: Objection to
15 form.

16 THE WITNESS: That's software
17 based, to my knowledge.

18 BY MR. KARP:

19 Q. What data or research can
20 you point to that social media contributes
21 to absenteeism or school avoidance?

22 MR. RIVERA: Objection to
23 form.

24 THE WITNESS: Respectfully, I
25 want to say asked and answered, but

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1 I know that you asked it slightly
2 different. My experiences and the
3 data that I have witnessed.

4 BY MR. KARP:

5 Q. You would agree with me that
6 kids have wanted to avoid school because of
7 fearing ridicule or bullying even before
8 social media existed?

9 MR. RIVERA: Objection to
10 form.

11 THE WITNESS: Social media
12 makes it worse now.

13 BY MR. KARP:

14 Q. My question is different.
15 My question is, have students always
16 avoided school for fear of being bullied or
17 ridiculed?

18 MR. RIVERA: Objection to
19 form.

20 THE WITNESS: I don't know if
21 kids have always feared to be
22 ridiculed. I don't know what the
23 times were in the early 1900s --

24 BY MR. KARP:

25 Q. Before -- I didn't mean to

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1 cut you off, sir.

2 A. I'm saying I don't know.

3 Q. Before social media, did
4 kids fear coming to school -- or strike
5 that.

6 Before social media, did
7 kids avoid coming to school because they
8 were afraid of being bullied or ridiculed?

9 MR. RIVERA: Objection to
10 form, vague, broad.

11 THE WITNESS: There's an
12 argument for that, but
13 unfortunately -- well, fortunately,
14 for them back then, they only had
15 to worry about kids at their
16 school. They didn't have to worry
17 about seeing their face everywhere.

18 BY MR. KARP:

19 Q. Is that a yes?

20 A. That was my answer.

21 Q. Yes?

22 MR. RIVERA: Objection to
23 form. Asked and answered.

24 BY MR. KARP:

25 Q. Is that a yes, that before

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1 social media, kids avoided school for fear
2 of being bullied or ridiculed?

3 MR. RIVERA: Objection to
4 form.

5 THE WITNESS: That's a
6 possibility.

7 MR. RIVERA: Asked and
8 answered.

9 THE WITNESS: That's a
10 possibility. You're asking me
11 definitively to speak on these
12 hypotheticals where it's possible.

13 BY MR. KARP:

14 Q. When did you become a
15 teacher?

16 A. 1998 --

17 Q. Okay.

18 A. -- '99.

19 Q. Was there social media in
20 1998?

21 A. No.

22 Q. At that point in time, did
23 students avoid coming to school because
24 they were afraid of being bullied or --

25 A. I can't speak to that, I was

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1 a math teacher. I wasn't in the position
2 of a disciplinarian.

3 Q. Math teachers don't know if
4 students avoid coming to school for fear of
5 being bullied or ridiculed?

6 MR. RIVERA: Objection to
7 form.

8 THE WITNESS: I don't think
9 you can make that blanket
10 statement, because a math teacher
11 is not charged to be a counselor, a
12 math teacher may not know.

13 BY MR. KARP:

14 Q. So is it your testimony that
15 you don't know for any period of time
16 because you've never been a counselor?

17 MR. RIVERA: Objection to
18 form.

19 THE WITNESS: That's not my
20 testimony.

21 BY MR. KARP:

22 Q. You've never been a
23 counselor, correct?

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: School
2 counselor, no.

3 BY MR. KARP:

4 Q. Even before social media,
5 kids have wanted to be popular, would you
6 agree?

7 MR. RIVERA: Objection to
8 form. Outside the scope.

9 THE STENOGRAPHER: What was --
10 objection to form, what?

11 MR. RIVERA: Outside the
12 scope.

13 MR. KARP: What scope?

14 MR. RIVERA: Of my line of
15 questioning, which is what you're
16 limited to now.

17 MR. KARP: He testified about
18 kids wanting to be popular and
19 using social media, it's well
20 within the scope.

21 Do you need me to reask the
22 question?

23 THE WITNESS: I don't
24 understand how to answer that
25 question.

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1 BY MR. KARP:

2 Q. You testified earlier in
3 response to some questions from counsel
4 about students posting to social media
5 because they wanted to be popular, do you
6 recall?

7 A. Yes.

8 Q. Students wanted to be
9 popular even before social media, correct?

10 MR. RIVERA: Objection to
11 form.

12 THE WITNESS: I don't
13 understand the -- I don't
14 understand the logic behind the
15 question, like, we're talking about
16 students wanting to be popular,
17 people want to be popular.

18 BY MR. KARP:

19 Q. That's always been the case
20 even before social media, correct?

21 MR. RIVERA: Objection to
22 form.

23 THE WITNESS: People wanting
24 to be popular and the means in
25 which they can be popular are two

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1 different things. My context to
2 the answer is based upon the
3 vehicle that social media provides
4 for them to become popular, simply
5 by posting other people's pain.
6 I -- I mean, in the forties,
7 somebody wanted to be Judy Garland,
8 like that's -- I don't understand
9 the connectivity with the question.

10 BY MR. KARP:

11 Q. It's a yes-or-no question,
12 before social media, did students want to
13 be popular?

14 MR. RIVERA: Objection to
15 form. Asked and answered.

16 THE WITNESS: I don't know how
17 to answer that question.

18 BY MR. KARP:

19 Q. But you are able to answer
20 the question that today students want to be
21 popular because they -- by using social
22 media?

23 MR. RIVERA: Objection to
24 form.

25 THE WITNESS: It's evidence,

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1 it's their desires for attention is
2 evidenced by what they post and
3 their explanation for why they post
4 it.

5 BY MR. KARP:

6 Q. How long have you been
7 working in education?

8 A. I just answered that, 19 --
9 25, 26 years, I don't know.

10 Q. And has social media been
11 around for that entire time?

12 A. No.

13 MR. RIVERA: Objection to
14 form.

15 BY MR. KARP:

16 Q. Before social media existed,
17 did you ever observe students doing things
18 because they wanted to be popular?

19 MR. RIVERA: Objection to
20 form.

21 THE WITNESS: I can't answer
22 that question. Before social
23 media, I was a math teacher.

24 BY MR. KARP:

25 Q. Before social media, did

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1 students congregate around fights to watch
2 them take place?

3 MR. RIVERA: Objection to
4 form.

5 THE WITNESS: Yes.

6 BY MR. KARP:

7 Q. Before social media -- or
8 strike that.

9 Kids got into fights even
10 before social media existed, correct?

11 A. Yes.

12 MR. RIVERA: Objection to
13 form.

14 BY MR. KARP:

15 Q. Fights took place at school
16 even before social media, correct?

17 A. Are you suggesting that
18 social media doesn't cause fights because
19 they've existed before that?

20 Q. I'm not suggesting anything.
21 I'm asking a question about whether fights
22 occurred before social media?

23 MR. RIVERA: Objection to
24 form.

25 THE WITNESS: I don't

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1 understand the --

2 BY MR. KARP:

3 Q. Was there -- sorry, I didn't
4 mean to cut you off.

5 A. And I'm really not trying to
6 be difficult. I'm not understanding -- you
7 have an opportunity to ask me questions,
8 but you're asking me questions that I don't
9 understand the logical basis behind other
10 than this all happened before social media,
11 so what's the big deal. And I think that
12 that's -- that's a very dangerous
13 perspective.

14 Q. You responded to questions
15 from counsel saying that social media has
16 led to fights at Union Avenue Middle
17 School, correct?

18 A. Yes.

19 MR. RIVERA: Objection to
20 form.

21 BY MR. KARP:

22 Q. And my question is, did
23 fights take place at Union Avenue Middle
24 School even before social media?

25 MR. RIVERA: Objection to

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1 form.

2 THE WITNESS: I wasn't here at
3 Union Avenue Middle School.

4 BY MR. KARP:

5 Q. In your experience as an
6 educator, did fights take place at school
7 even before social media?

8 A. Yes. I'm confused.

9 Q. You testified earlier that
10 social media has exacerbated harassment and
11 bullying at Irvington Public Schools,
12 correct?

13 MR. RIVERA: Objection to
14 form. You can answer.

15 THE WITNESS: I don't recall
16 if I said it exacerbated it at
17 Irvington Public Schools, as far as
18 social media has made bullying
19 worse in general.

20 BY MR. KARP:

21 Q. And can you point me to any
22 research or data or studies to support
23 that?

24 MR. RIVERA: Objection to
25 form.

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1 THE WITNESS: Again, there is
2 no greater research for me to
3 formulate an opinion than what I
4 live.

5 BY MR. KARP:

6 Q. Is that a no?

7 MR. RIVERA: Objection to
8 form.

9 THE WITNESS: That's my
10 answer, sir.

11 BY MR. KARP:

12 Q. You mentioned a story
13 earlier -- or strike that.

14 You told us earlier about a
15 student who was bullied because of her
16 hair, do you recall?

17 A. Yes.

18 Q. Were students bullied about
19 their hair even before social media?

20 MR. RIVERA: Objection to
21 form.

22 THE WITNESS: Not on social
23 media.

24 BY MR. KARP:

25 Q. But were students bullied?

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1 A. My comment was about a girl
2 being bullied on social media.

3 Q. And have students been
4 bullied about their appearance even --

5 A. Not on social media.

6 Q. Please let me finish my
7 question.

8 A. Sorry.

9 Q. Before social media, were
10 students bullied for their appearance?

11 MR. RIVERA: Objection to
12 form.

13 THE WITNESS: My example was
14 about on social media. I don't
15 understand the nature of the
16 question outside of social media.

17 BY MR. KARP:

18 Q. With all due respect, you
19 don't understand my question?

20 A. I don't, I don't understand,
21 I don't understand the line of questioning
22 and maybe it's because of how my mind is
23 wired, I want to provide information that
24 can be useful, not to hinder, but I need to
25 understand, like, we're pushing ten hours

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1 and I'm trying to understand what are we
2 driving at?

3 This is -- I made an example
4 about a girl being bullied about her hair
5 on social media, because there were people
6 who weren't there when they saw her hair,
7 but because of social media, everybody is
8 now in on a joke. I don't think you can go
9 back in time and replicate that to justify
10 that social media did not make that
11 situation worse. That situation would have
12 been worse regardless of social media,
13 because there's nothing that we've ever
14 seen like media and social media, it makes
15 the world smaller.

16 So I don't know how we come
17 up with false comparisons and the purpose
18 behind the false comparison when how is
19 that fruitful? I don't understand the
20 question.

21 Q. With all due respect, Dr.
22 Zahir, you don't need to understand the
23 logic of my questions, I'm simply asking
24 questions and expecting answers.

25 So my question to you is

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1 before social media, were students bullied
2 because they were different?

3 MR. RIVERA: Objection to
4 form.

5 THE WITNESS: I don't know
6 how --

7 MR. RIVERA: Asked and
8 answered.

9 THE WITNESS: -- to answer a
10 question I don't understand. I
11 don't understand the question.

12 BY MR. KARP:

13 Q. You don't understand the
14 question, were students bullied for being
15 different before social media existed?

16 MR. RIVERA: Objection to
17 form.

18 THE WITNESS: I don't
19 understand the logic of the
20 question, so in order for me to
21 provide a logical answer, I don't
22 understand the logic of the
23 question.

24 BY MR. KARP:

25 Q. Is it your testimony that

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1 students were not bullied for being
2 different or for their physical appearance
3 before social media?

4 MR. RIVERA: Objection to
5 form.

6 THE WITNESS: That is not my
7 testimony.

8 BY MR. KARP:

9 Q. Is it your testimony that
10 they were bullied for being different or
11 for their physical appearance before social
12 media?

13 A. That is not my testimony.

14 MR. RIVERA: Objection to
15 form.

16 BY MR. KARP:

17 Q. You had testified in
18 response to questions from counsel that you
19 studied developmental psychology; is that
20 right?

21 A. We learned about
22 developmental psychology, yes.

23 Q. Okay. Have you ever
24 diagnosed someone with addiction? Have you
25 ever diagnosed someone with addiction?

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1 A. I am not a professional.

2 MR. RIVERA: Objection to
3 form.

4 THE WITNESS: I'm not in a
5 position to formally diagnose
6 anyone.

7 BY MR. KARP:

8 Q. Have you ever treated
9 someone for addiction?

10 MR. RIVERA: Objection to
11 form.

12 THE WITNESS: Professionally,
13 no.

14 MR. KARP: I believe those are
15 all my questions. Do you have any?

16 MR. RIVERA: I'm good. No
17 further questions.

18 MS. SCULLION: The deposition
19 is complete.

20 MR. KARP: Can I just make a
21 brief statement on the record?

22 MS. SCULLION: Well, the
23 deposition is complete, so I don't
24 know what we're making a statement
25 about.

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1 MR. KARP: Not any further
2 questioning, I just wanted to make
3 a record of our position that
4 Irvington is continuing to produce
5 documents in this litigation and
6 there are still some discovery
7 disputes, in particular, about the
8 status of the privilege log. Our
9 position here is that this
10 deposition is open subject to the
11 additional production of materials
12 that may require needing to ask
13 additional questions. We don't
14 know if that's going to be the
15 case, but we hope that it's not,
16 but to the extent there are
17 documents we have requested that
18 have not yet been produced, we --
19 our position is that this
20 deposition is still open.

21 MS. SCULLION: And we disagree
22 with that position and we will be
23 happy to meet and confer about that
24 should the occasion arise.

25 MR. KARP: Thank you.

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1 MR. RIVERA: Could we get the
2 time on the record?

3 THE VIDEOGRAPHER: So
4 Mr. Andrew Karp was on the record
5 for six hours 17 minutes.
6 Mr. Joseph Sandoval for four
7 minutes, and Mr. Carlos Rivera for
8 35 minutes. The time right now is
9 6:57 p.m. We are off the record.

10 - - - - -

11 (Whereupon, the deposition
12 was concluded at 6:57 p.m.)

13 - - - - -

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on May 22, 2025, and that this is a correct transcript of same.



Robin L. Clark

Registered Professional Reporter

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.)

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INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections.

You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I, DR. KCYIED ZAHIR, do hereby
certify that I have read the foregoing pages
and that the same is a correct
transcription of the answers given by me to
the questions therein propounded, except for
the corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

DATE

SIGNATURE

Subscribed and sworn to before me this
day of ,
2025.

My commission expires:

Notary Public